

Minutes of the meeting of Cabinet held at online meeting on Thursday 22 April 2021 at 2.30 pm

Present: Councillor David Hitchiner, Leader of the Council (Chairperson)
Councillor Felicity Norman, Deputy Leader of the Council (Vice-Chairperson)

Councillors Ellie Chowns, Pauline Crockett, Gemma Davies, John Harrington, Liz Harvey and Ange Tyler

Cabinet support members in attendance Councillors Jenny Bartlett, John Hardwick, Peter Jinman and Alan Seldon

Group leaders in attendance Councillors Terry James, Jonathan Lester, Bob Matthews and Trish Marsh

Scrutiny chairpersons in attendance Councillors Elissa Swinglehurst, Carole Gandy and Jonathan Lester

Officers in attendance: Acting Deputy Chief Executive (S151) and Interim Head of Legal Services

76. OPENING REMARKS

The leader of the council opened the meeting with a statement regarding the recent high court judgement and forthcoming extraordinary council meeting. The leader had apologised on behalf of the council to the family affected by the failings identified. An extraordinary meeting of council had been called to agree actions to improve the service and papers for that meeting were available on the council website. The council would be working hard to ensure that the children of Herefordshire were protected and safeguarded.

77. APOLOGIES FOR ABSENCE

There were no apologies from members of the cabinet.

78. DECLARATIONS OF INTEREST

None.

79. MINUTES

Resolved: That the minutes of the meeting held on 25 February 2021 be approved as a correct record and signed by the Chairperson.

Cllr Davies abstained from the vote as she was absent from the previous meeting. The remaining cabinet members approved the minutes unanimously.

80. QUESTIONS FROM MEMBERS OF THE PUBLIC (Pages 5 - 10)

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

81. QUESTIONS FROM COUNCILLORS (Pages 11 - 12)

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

82. HEREFORDSHIRE CAPITAL INVESTMENT STRATEGY 2021-2030 FOR SPECIALIST SETTINGS EDUCATING CHILDREN AND YOUNG PEOPLE WITH SPECIAL EDUCATIONAL NEEDS AND DISABILITIES SEND

The cabinet member children and families introduced the report on the proposed strategy to improve the stock of SEND schools in the county.

The schools capital investment advisor and head of additional needs explained the background to the report and the next steps proposed, supported by the assistant director education development and skills.

The position of the council's high needs budget was commended as Herefordshire was one of very few councils not to be in a deficit. The work of the strategic finance manager and support of the schools forum in achieving this was praised by cabinet members and others in attendance. The approach of special schools in the county in meeting the needs of pupils that other council's might have placed in independent provision was also highlighted as contributing factor.

Cabinet members discussed the report and proposed strategy. It was noted that:

- It was important that projections were as robust as possible and the right balance struck in the type and number of special school places provided;
- The academic performance of special schools in the county was good;
- Consultation on possible changes to provision should involve children and young people as well as parents/carers and school staff;
- Documents needed to be in plain English wherever possible;
- Transport for pupils with SEND sometimes involved long journeys, it was hoped that the strategy would reduce the numbers of these by increasing the number of pupils retained locally although the complexity of some pupils' needs would still necessitate placements outside the county;
- A review of all school transport was about to commence and transport for SEND pupils would be considered once the strategy was in place;
- Development of additional provision for a particular group of pupils with autism, who were often placed outside the county, would reduce travel times and the cost of placements;
- An equality impact assessment should be completed for the overall strategy, not just for each individual project within it.

The chair of the children and young people scrutiny committee gave feedback from the committee's consideration of the strategy. The committee had generally welcomed the plan but had expressed concerns about the potential closure of the sixth form provision at Westfield School. It was recognised that the current buildings were in poor condition, did not meet the latest national guidelines and that expansion on the current site was not possible. However loss of the sixth form would increase travel times for pupils in the north of the county and it was important that proper consultation was carried out before a decision was taken.

Cabinet members were assured that feasibility work would look at both a 2-16 and a 2-19 option for the Westfield site and that the views of the headteacher and the community would be listened to.

Group leaders presented the views and queries of their respective groups. The strategy was generally supported and it was noted that:

- The strategy should be incorporated into the overall schools capital investment strategy;
- It was important to include pupils with SEND in mainstream schools as much as possible;
- The opening of the new Beacon college for 16+ students with SEND would be an important step forward;

- It was pleasing that the high needs budget was not in deficit but there was very little contingency remaining and the council could not be complacent.

The cabinet member children and families closed the debate noting that equality of opportunities in education was a key focus of the strategy and that a balance would have to be struck in the provision made to achieve that equality of opportunity for all children.

It was unanimously agreed that:

- a) Cabinet adopts the approach and recommendations within the 'Herefordshire Capital Investment Strategy 2021-2030 for specialist settings educating children and young people with special educational needs and disabilities (SEND)' (hereafter referred to as 'the strategy')**

83. TO SET OUT THE COUNCILS PREFERRED WASTE COLLECTION MODEL AND TO AGREE THE IMPLEMENTATION PLAN FOR THE NEW WASTE MANAGEMENT SERVICE

This item was withdrawn from the meeting.

The cabinet member commissioning, procurement and assets approved the executive response to the Waste Management Strategic Task and Finish Group Review under a separate decision and this may be viewed at

<http://councillors.herefordshire.gov.uk/mglIssueHistoryHome.aspx?IId=50037106&Opt=0>

The meeting ended at 4.04 pm

Chairperson

PUBLIC QUESTIONS TO CABINET – 22 April 2021**Question 1****Mr K Butler, Whitbourne****To: cabinet member, infrastructure and transport**

With the Summer tourist season approaching, when are the unsightly flower barrels that litter Bromyard going to be removed, along with the despoiling road markings in Broad Street and High Street?

Response

Thank you for your thoughtful question. These measures were implemented in response to the government's request (amongst others) that local authorities provide extra space on pavements in order for safe social distancing to be maintained, reducing the risk of infection as people use the high streets during the pandemic and protecting the population, especially the elderly and vulnerable. When direction from the government and advice from Public Health England changes, the measures will no doubt change. As the Prime Minister has indicated, when announcing the roadmap out of lockdown, that all restrictions will be lifted on June 21 officers have begun the review process of all emergency active travel measures installed in town and the City centres last year.

Question 2**Mr D Harwood, Ross-on-Wye****To: cabinet member, environment, economy and skills**

Thank you for sending a copy of the Green Book and details therein as they relate to guidance for planning and development. The Green Book acts as a guidance tool for decision making and it therefore falls on the Council to define more precise metrics for approval and investment of public money. This being the case and understanding projects need to fall within strategic priorities, is the Council able to share the key metrics a much needed business park development will need to achieve to go ahead in Ross-on-Wye?

Response

As mentioned in the previous responses to this question, the council has commissioned the development of an Economic Development Investment Plan for Ross on Wye (as well as the other four market towns) to identify how we can support the growth of Ross including the need for additional employment land. This work is due to conclude in May 2021. With a finite amount of funding available, the council will need to consider which projects can deliver the greatest strategic impact in delivering the Investment Plan. Therefore, there are not a single set of metrics that that would automatically lead to the development of the model farm site. Should the Investment Plan identify the need for additional employment land in Ross on Wye, we will need to consider the most effective way of meeting this need going forward.

Supplementary question

It is noted a much needed Business Park in Ross has to fall within the priorities of the Council. Excluding the obvious large scale residential development in the town can the council please share what it lists as the top 3 strategic priorities for Ross?

Response

As mentioned in the answer to the original question Herefordshire Council is currently engaged in an in-depth piece of project development work essentially with each of the market towns, including with Ross, which is specifically designed to identify what are the economic development priorities for that town. It's not something that we as Herefordshire council would decide without consultation with local people and indeed there have been a number of opportunities for local people to feed into that process. As the original response said this work is anticipated to come to an end soon, we're aiming for the end of May, and at that point we will be able to identify opportunities to take forward specific projects.

Question 3

Ms A Probert, Hereford

To: leader of the council

In light of the council decision to scrap the Southern Link Road & the Bypass, the secretive way in which the vote was taken, which when followed up by the Hereford Times and their question to elected members as to which way they voted yielded a different result, does the Leader of the Council think the voting system was faulty or that elected members didn't know which way they were voting?

Response

As with all local authorities currently working 'virtually', during Covid 19, we are doing the utmost to remain as open and transparent as possible. We are working within the regulatory framework that has been set out by the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020. The council is compliant with these regulations.

There is no evidence to suggest that the electronic voting system is not accurate and democratic services are able to verify the voting choices of members.

An important principle applied to our virtual meetings is that they align as closely as possible to the physical committee format and apply the rules of our constitution. Under our constitutional arrangements: Only, where there is a requirement to record the named vote, will the results of the roll call be recorded at the meeting and in the minutes.

As you, and a number of our own local councillors, have quite correctly observed, an unintended consequence of using electronic voting is less visibility of members voting choices than would be the case in the physical committee environment. To that end, and under the aforementioned regulations, a local authority may make other standing orders in relation to the rules of the authority governing the meeting – this can include how the council manages our voting system in virtual meetings.

Following consultation with political group leaders the council will now publish the results of electronic voting as an appendix to the written minutes of our meetings. This will allow members of the public to see how members have voted.

Question 4

Mr M Willmont, Hereford

To: cabinet member, commissioning, procurement and assets

Re: Agenda item 7 Waste Management Service

If the Council agree to proceed with Option 1 can I be assured that there will be continued provision for residents such as me who currently uses plastic bags for refuse? This is because I have neither the space to store two, let alone 4/5, wheeled bins neither do I generate sufficient waste to justify the use of wheeled bins.

Response

Thank you for your question. I am aware of the varied needs amongst our residents for waste collection. I live in a flat and have the same issues re storage of wheelie bins. We will absolutely be considering this when the service is designed to ensure that all residents are catered for. Currently plastic bags are provided for such situations, so it is likely that a similar system could be deployed in the future. Reference the Equality Impact assessment there is a section that considers 'any other' and I will ensure that this is revised to reflect this.

Question 5

Ms J Suter, Leominster

To: cabinet member, infrastructure and transport

How many councillors have either walked, driven or ridden a bicycle through the main streets of Leominster town? I am sure that if a H&S executive came to visit the town it would be immediately and entirely closed down as the condition of neither streets or pavements are "fit for purpose". They are a risk to life and limb encountered by any person who enters this town.

Our rates both private and business are the same over the whole county but the funds are not evenly distributed.

Unless something constructive, in a major way, is carried out very quickly this town will be killed stone dead so you can bid goodbye to any further contribution to your budget.

This is not a joke it is a fact.

When are you going to resurface the highways of Leominster?

Response

Leominster is my closest town and where I shop and socialise and I know it well, including its pavements and streets, which are not in the condition we would all like them to be in. There is a difference to them being in an unsatisfactory condition due to severely reduced government funding and them being a risk to life and limb and I can assure you that we regularly inspect all roads and footways in line with our Highways Maintenance plan. Any defects identified are then risk assessed and repaired within the required timescales. This assessment is made on the basis of safety and takes into account all road users. If you feel an area poses a particular risk please let the Council know by ringing 01432 (261800) or via the website at <https://myaccount.herefordshire.gov.uk/report-a-pothole> or the report it App.

The public realm annual plan for 2021/2022 includes a programme of maintenance schemes. There are three sections of footway in Leominster that have been identified for inclusion in this year's programme - Caswell Road, Matilda Close and Glover Road. There are no road resurfacing currently planned but in recent years we have resurfaced Southern Ave, Brierley Way and Bridge Street and footways at George Street and Barons Cross. I appreciate that this may

not seem like a large number of schemes but we have to balance our limited resources and this year we are allocating a greater proportion of that limited funding to drainage works across the county's road network. We have to carry out road repairs on a risk matrix basis and therefore faster A and B roads often have to be repaired or resurfaced before slower C and U roads and City and town streets. I wish we had more funding but that is a question that needs to be put to our MPs who consistently voted to reduce government funding to Herefordshire.

There is some better news on the horizon though. You may also be aware that Leominster has been chosen by Historic England as one of 68 towns in England to benefit from the High Streets Heritage Action Zone programme. Over the next 4 years £3.8m will be invested in Leominster to transform and restore historic buildings and improve the public realm. £1.353m will be invested in improving the public realm in the Leominster conservation area, including Etnam Street, Corn Square and High Street. This will include repairing damaged and badly worn kerbstones and pavements and addressing problems with road surfaces. Consultations with the community and local stakeholders are due to start in October. The projects are expected to complete in 2023.

Question 6

Ms G Macefield, Leominster

To: cabinet member, infrastructure and transport

Why have you allowed the roads and pavements to fall into such a diabolical state of disrepair? The pavements are dangerous, very unsafe to walk along and almost impossible to push a wheelchair around. The roads are appalling, there are multiple pot holes, whole sections of road are rough and full of dips. I suggest the council take time to walk the streets of Leominster, and look at these issues first hand. The worst roads are at the top of Etnam street, along High street and New street. The pavements all through the town are just horrendous and only the desperate shoppers take time to walk around them. Get them fixed, this is a health and safety issue, these pavements and roads in Leominster are not fit for purpose.

Response

See my response to question 5 above.

Question 7

Mr P Davies, Leominster

To: cabinet member, infrastructure and transport

Can you provide details of the timeline programme to repair and resurface the roads in Leominster, along with a roadmap for the betterment of the town generally.

Investment is clearly lacking and the council does not appear to wish to capitalise on the vicinity to Birmingham and the levels of investment that appear available in the West Midlands. What is the council doing to bring in investment in jobs, retail and hospitality? Please provide ACTUAL details.

Response

My response to question 5 sets out the planned maintenance / annual plan works programme for this year. This programme will be available on the council's website when it is formally signed off shortly. I have also set out the High Streets Heritage Action Zone project which represents a significant investment in Leominster town centre between 2021 and 2023. My officers continue

to pursue funding opportunities as they become available to support investment in the town's public realm and economy. If we had more money to spend on our public realm we would spend it, unfortunately we do not and therefore, outside of continually requesting our MPs to stop voting for cuts to Herefordshire's funding, we have to try and manage what we have as best we can.

Question 8

Ms M Albright, Hereford

To: cabinet member, infrastructure and housing

The phosphate crisis continues to harm our county.

Catastrophic detriment is being caused to the once thriving local construction sector and tourism industry. It is negatively impacting upon housing delivery, inward investment, and our reputation. It is causing unjust hardship to ordinary families and good local businesses. We are also collectively failing to protect and restore our most significant ecological framework – soil and water.

Did Herefordshire Council undertake a Risk Assessment to measure likely impacts and consequences of the 'moratorium' or make contingencies for an alternative plan should evidence change – e.g learning from scientific data that the majority of phosphate in the river does not come from existing or new housing?

Response

Thank you for your question. As you and members of Herefordshire's Construction Industry Lobby Group know, we are painfully aware as a Council of the consequences to our local industries as a result of Natural England's decision to impose a de facto, as such, moratorium on development in the Lugg catchment due to increased phosphate pollution of the water courses by telling us as the local planning authority to require proposed developments to meet five tests before planning consent is given – essentially distilled into the understanding that any development must guarantee neutrality of betterment in terms of phosphates.

We are in the extremely unsatisfactory position of being the responsible body that has to say no to development unless those tests are met (which are difficult to meet) whilst our statutory agencies, such as the Environment Agency, struggle to catch up with their duty to protect the rivers that fall under their, not our, control. It is extremely frustrating to witness the pollution of our rivers and tributaries because poor and ineffective oversight of these rivers, as a result of significant reductions in funding and resources by central government, means sufficient testing, best practice direction and enforcement has failed to be carried out for at least a decade – all of which has resulted undoubtedly in the excessive pollution of our precious rivers and landscapes.

With regard to your specific point about a risk assessment, Herefordshire Council has committed significant funding and resource towards producing and supporting mitigating measures to reduce pollution and to finding pathways to allow full development to resume whilst satisfying Natural England's conditions but the 'risk assessment' always comes down to a question of legal risk to us as the competent authority. Advice was sought when Natural England first imposed their conditions for their statutory consent for planning permission in the Lugg Catchment. I also requested and we sought further advice on the risk to the authority if we, knowing we have committed funds and resources to reduce phosphate discharge into the river, discounted Natural England's requests for betterment or neutrality and began to grant permissions. This was partly prompted by the frustrating lack of sufficient pace and depth of interaction from Natural England in agreeing a new Nutrient Management Plan to meet their 'certainty' test). The advice was that

we could not, at that time, ignore the conditions for permission laid out by Natural England and proceed without their consent as a statutory body.

I do feel it is time to re-test that risk and have asked officers to prepare an updated position statement to submit for further advice, factoring in all the mitigating actions we have committed to. I would welcome HCILG's input into that updated position statement.

Supplementary question

The lobby group would be very grateful if you were able to reconsider the burden and balance of 'risk' especially in light of the government stating recently that preventing and delaying housing planning approvals is not a sustainable position for Herefordshire.

Government has also confirmed that Herefordshire Council is able to deviate from the Natural England advice providing they have good reasons for doing so. I wonder is now is the time to put this into motion?

Herefordshire Council does have strong scientific evidence to show that new housing is not a likely significant effect on the protected environment, especially where a private drainage system might be utilised. You also have a very good range of mitigation options on the horizon which will be in place well before new homes built now would be occupied.

The lobby group do appreciate that Herefordshire Council have allocated funding and invested significant effort. However sadly we still don't have access to any of these solutions or indeed the promised phosphate calculator. We are not aware of any technical or legal way for our applications to secure approval, once they have even had chance to use the calculator or choose a mitigation option. Do councillors know when the calculator may be ready for us to use? Please rest assured that I will keep asking the agencies and the MPs to support the council going forward but maybe, and this is how I feel, maybe it is time to lift the de facto moratorium and to help get the local construction sector working and contributing to the county once again.

Response

We appreciate all the efforts of the construction lobby group. You have been put in a very difficult position and you have lost a considerable amount of income and finance to this county. Everything you've said makes sense to me but we as a local authority have to take the risk and it is always a source of frustration when government officials give advice which is not binding advice when we know in reality that it is Herefordshire Council that will carry the risk if we give permissions against the non-statutory consent from agencies such as Natural England. However we have to at some point consider that risk of potential judicial review to the council at a later stage from all sorts of people against the damage being done to the local industries, to our tourism and it is with that in mind that I made that offer for you to come to speak to us. As a matter of urgency I've already asked for further legal advice to be take on this and I think that your input into that will help us to ask the right questions to determine risk. Let's not forget that the Environment Agency is the responsible body for the rivers that are affected and it is very difficult for us as a council to be doing everything that we can but be essentially powerless against the statutory bodies and the government agencies that should be doing this. But we can make this assessment of risk because it's come to the point now where the damage that's being done is so great that we have to decide whether or not we take that risk as a council and so I'm happy to have that conversation and we'll set that up as soon as possible.

COUNCILLOR QUESTIONS TO CABINET – 22 April 2021

Question 1

Councillor Nigel Shaw, Bromyard Bringsty Ward

To: cabinet member, commissioning, procurement and assets

Now that a year has passed since rents from the Maylord retail centre were due to be received by the Authority, can the yield on the first year's ownership of this site be made available, together with details of the numbers of tenants currently in arrears in either rent or business rates and how much is owed to this Council?

Response

The net. current yield is 10.43%. At the end of the 2020/21 financial year the total rent and service charge debt in respect of the Maylord Shopping Centre was £549k, this sum is due from a total of 22 debtors. The sum of debt due in respect of business rates cannot be disclosed as this information is protected by General Data Protection Regulation.

We are continuing to work with businesses who are facing unprecedented financial challenges. We are speaking with those businesses to determine how we can best support them to pay back their arrears.

We continue to have much interest for the area along with longer term agreements being confirmed for a variety of business owners committed to the development of a key asset to the city.

Supplementary question

A year ago tomorrow Council published the decision to purchase the Maylord shopping centre. Can the Cabinet member confirm how many years it will be before a business plan for the future development of the property will finally be published?

Response

Certainly we are doing the strategy for Maylords and I anticipate it being ready this year.

