

## Communities Scrutiny Committee 13 December 2018

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### **PRESENT:**

**COUNCILLORS:** Glyn Daniels, Elwyn Edwards, Peter Garlick, Simon Glyn (Chair), Annwen Hughes, Aled W Jones, Elwyn Jones, Kevin Morris Jones, Edgar Wyn Owen, Mike Stevens, Gethin Glyn Williams, Owain Williams and Gruffydd Williams.

**OFFICERS:** Gareth James (Member Support and Scrutiny Manager) and Lowri Haf Evans (Member Support Officer).

### **ALSO PRESENT:**

In relation to item 5 on the agenda – Catherine Roberts (Delivery Manager - Gwynedd and Anglesey Community Safety Partnership), Geraint Owen (Head of Corporate Support Department).

In relation to item 6 on the agenda - Gareth Griffiths (Cabinet Member for Highways and Municipal), Steffan Jones (Acting Head of Highways and Municipal Department) and Peter Simpson (Street Services Manager).

In relation to item 7 on the agenda - Dafydd Meurig (Cabinet Member for the Environment), Dafydd Wyn Williams (Head of Environment Department), Gareth Jones (Senior Planning and Environment Manager), Rhun ap Gareth (Senior Solicitor) and Iwan Evans (Monitoring Officer).

In relation to item 8 on the agenda - Dafydd Meurig (Cabinet Member for the Environment), Dafydd Wyn Williams (Head of Environment Department) and Dafydd Gibbard (Senior Manager - Corporate Property).

### **1. APOLOGIES**

Apologies were received from Councillors Keith Jones, Linda Morgan and Catrin Wager.

### **2. DECLARATION OF PERSONAL INTEREST**

The following members declared a personal interest in the following items for the reasons noted:

- Councillor Annwen Hughes in item 8 on the agenda as her son was a tenant at 3 Morfa Mawr, Llanbedr.

The Member was of the opinion that it was a prejudicial interest and she withdrew from the Chamber during the discussion on the item.

### **3. URGENT ITEMS**

None to note

### **4. MINUTES**

The minutes of the previous meeting of this committee, held on 10.10.2018 were accepted as a true record of the meeting.

## **5. ANNUAL UPDATE OF THE COMMUNITY SAFETY PARTNERSHIP**

A report was submitted by the Delivery Manager of Gwynedd and Anglesey Community Safety Partnership and she updated the Committee on the Partnership's field of work. It was explained that the Partnership was required to report formally to the Committee on an annual basis, to present an overview of the main strategic developments of the Partnership over the year, along with the commissioning work that set a framework for the priorities. It was added that this ensured that the Partnership delivered its obligations in accordance with sections of the Criminal Justice and Police Act 2006, by working with the Police, Health Service, Probation Service and the Fire and Rescue Service.

Attention was drawn to the main messages that stemmed from the 2017/2018 activities, together with the year's main achievements. Reference was made to a questionnaire that had been shared with the public to have their say about crime in their communities. The 987 responses received had been analysed and it was highlighted that Gwynedd was one of the safest Counties in Wales.

The main milestones for 2017-2018 were highlighted and the Scrutiny Committee was asked to support the priorities listed in the report together with the future direction of the work.

In response to a question about the 13.3% increase in victim based crime in Gwynedd, the analysis showed that this could be attributed to an increase in the efficiency of recording these crimes, rather than an increase in the number of crimes. It was reiterated that the changes to the process of recording some cases, such as stalking and harassment had contributed to the increase as they were now recorded as relevant cases, rather than as one case. It was also noted that there had been an increase in the number of people who came forward to report crimes.

### **RESOLVED**

- **to accept the report;**
- **to support the Partnership's priorities and direction of work to the future.**

## **6. STREET ENFORCEMENT TRIAL**

A report was submitted by the Cabinet Member for Highways and Municipal, providing an update on the street enforcement trial and reporting that the Service would submit a further recommendation on the way forward in an attempt to improve the provision for the purposes of ensuring the cleanliness and appearance of Gwynedd's streets.

Following a request from the Scrutiny Committee for the Service to consider possible options to change the public's behaviour that would lead to an improvement in the quality of the local environment and the cleanliness of streets, feedback was provided on three possible options and the steps taken by the Service in an attempt to move forward.

During the ensuing discussion, the following points were highlighted by individual Members:

- issuing penalties in urban areas was much easier than issuing penalties in the countryside
- that there was a need to hold campaigns to raise awareness and educate
- beach rubbish - creating enforcement areas
- consider installing hidden cameras in communal bin sites

The Cabinet Member noted that he accepted the observations regarding the problems of issuing penalties in the countryside and he reiterated the importance of educating

children on a primary level by highlighting respect towards their environment.

In response to a comment regarding the fact that some refuse collection workers were rushing and untidy, it was highlighted that the Service was looking to introduce new refuse collection arrangements with a 37 hour shift pattern and having one team responsible for the same weekly routes. It was expected that the workers would have more ownership of the route, as well as an improved understanding of residents' needs. Discussions with the Unions would be held before Christmas with the intention of introducing the arrangements in Dwyfor in February 2019, in Meirionnydd in July 2019 and in Arfon in February 2020. It was agreed to submit a report / update on the impact in October 2019.

In response to a question regarding how the Service would monitor the use of cameras by maritime staff, it was reported that everything would be copied into the back office system so that every situation could be monitored when the cameras would be on. It was reiterated that guidelines were being prepared and an implementation policy was in the pipeline. It was also noted that the cameras gave officers more confidence to issue a penalty.

In response to a question regarding the service's plans for the next six months, it was noted that discussions were being held about work that could be done jointly with other authorities. It was reiterated, since various authorities in the north had wound up their contracts with external companies, that regional meetings had been held to consider how to deliver this type of service, share resources and raise awareness. It was noted that every authority did not agree with a single procedure, but that the majority favoured an in-house provision. It was explained that some already had plans to submit to Cabinet. Collaborating across the North would improve consistency in the context of fines.

In response to an observation regarding various acts in England and Wales relating to throwing rubbish out of a car window, it was noted that England had an arrangement noting that the vehicle's owner would be penalised, however in Wales, the person throwing the rubbish had to be identified. It was reiterated that Wales had commenced the process of introducing something similar to England but that this had been put to one side for the time being.

The officers were thanked for their hard work and for the good partnership they had with the public. The good work being done with recycling arrangements was acknowledged and the wish to see an improvement in refuse disposal and the quality of the local environment was reiterated.

**RESOLVED to accept the information.**

**A request was made for progress reports on,**

- **the use of authorised maritime staff cameras and**
- **the impact of changes to the recycling arrangements.**

## **7. PLANNING MATTERS - PLAS PISTYLL, PISTYLL, PWLLHELI**

The Head of Environment Department submitted a report which responded to concerns regarding the delegation procedure in the context of decisions relating to Plas Pistyll. As part of the report, a detailed account of the application's planning history was noted, along with the current and previous Planning Delegation Schemes in Gwynedd. The Cabinet Member noted that he had commissioned a piece of work to gather information that would respond to the local discontent and the lack of understanding of how the decision had been made for the purpose of identifying whether the delegation procedure had been followed properly.

The following initial points were highlighted by an individual Member:

- that substantial modifications and alterations to what had been agreed in 2012 had been done under the delegation procedure.
- a new application should have been submitted in 2016 due to modifications to the size, height and design of the plan
- as the nature of the alterations was more than what was considered reasonable, the decision should have been called into the Planning Committee
- that the site was sensitive and within landscapes that needed to be protected
- that the modifications had angered local residents and members
- Officers were the only ones who could not see the impact
- Who had the right to modify and define what a 'minor impact' was?

In response, the Chair noted that there was no intention to re-open the planning application but there was a need to try to learn lessons from the situation. It was reiterated that the Planning department needed to justify that it was happy with the procedure and that the correct path had been followed and whether the delegation scheme addressed the challenges.

The Monitoring Officer reiterated the constitutional situation for the members and reported that the arrangements had been followed in accordance with the thresholds in the Delegation Scheme that applied at the time. It was noted that the application submitted in 2016 was an application to amend conditions that included reducing the number of units and modifying the design - therefore, the principle of the development was not being considered when determining the application and it did not meet the relevant thresholds for reporting on this type of development to the Planning Committee.

During the ensuing discussion the following observations were highlighted by the Local Member:

- Accepted that the 'technical' procedure had been followed, but in light of the substantial impact of the plan, should 'alarm-bells' have been heard?
- Should the morality of the situation have been considered?
- The Community Council had received a letter referring them to the website which provided information about 'minor alterations' to the application.
- The report was self-righteous.
- Was a threshold such as 'an application that the Head of Environment considers should be referred to Committee', relevant on this occasion?

In response to the observations, the Head of Environment Department noted that he sympathised with all opinions received, the impact on the community and the history of the application. He reiterated that the report referred to the procedure that the officers had followed in order to reach their decision. He noted, unless local messages were shared with officers, that it was not possible to understand the 'feelings' and views of local residents. It was noted that planning was an objective field and so, unless objections were presented, it had to be accepted that the application was acceptable. Members were reminded that the Local Member had the right to submit the application to the Planning Committee if the application was contentious. No objection had been received from the Community Council and so the recommendations and decision of the planning officer were in line with the statutory requirements.

During the ensuing discussion the following points were highlighted by individual Members:

- Accepted that the application approved in 2012 was acceptable
- The alterations / modifications submitted in 2016 were not 'minor modifications'

- Common sense would highlight that the 2016 application was 'substantially different'
- The thought process of some elements of the delegation procedure made no sense.
- What needed to be done was ensure that no further alterations were made to the Plas Pistyll plans.
- A suggestion was made to review the Delegation Scheme so that this did not happen again.

In response to the observations, the Cabinet Member noted that alterations to conditions was in question here and so the application did not meet a definitive threshold. Officers were not responsible for identifying contentious issues / applications. Local members had the ability to do this.

In response to the observations, the Monitoring Officer confirmed that when an applicant would submit an application to modify conditions, the conditions were the only issue determined. It was noted that many relevant thresholds were being considered by planning officers and that they had the responsibility of 'reaching a view'. It was not easy, necessarily, to create the rules of the delegation procedure in respect of this responsibility as there were so many different potential scenarios.

In response to the observations, the Senior Planning and Environment Manager emphasised that the application's planning history was very important to the current situation as planning rights and tourism uses already established on the site offered scope for developers to re-develop the site. He reiterated that bespoke holiday homes, not houses, were being built on the site and that they would be restricted to tourism use. In terms of submitting an application to alter the application's conditions, it was noted that the application had been considered in depth, that details of the plans had been shared, that a period of statutory consultation had been held and that a delegated report had been prepared (as was done with every application). He confirmed that he was comfortable that the application had been dealt with and discussed properly, that the issues had been addressed and assessed correctly, and that the recommendations submitted were robust. He noted that there had been no public objection to the modifications and therefore it was appropriate for the application to be determined under the delegation procedure.

In response to the above observations, the Members noted the following points:

- That the officers had gone beyond what was expected
- That Local Members and Community Councils needed to take a greater responsibility
- Guidelines had to be adhered to
  
- That there was a need to review / change policies relating to holiday accommodation and holiday homes. Could this be scrutinised? To be discussed at the informal meeting.
- The original plan referred to flats, not individual houses
- There was a need to ensure that information was shared with Community Councils
- That an independent expert was needed to review the Delegation Scheme
- Fundamental alteration / change - difference of opinion / meaning - a clear definition was needed
- Officers needed to evaluate evidence when 'reaching a view'.

The Senior Solicitor noted that 'minor impact / alteration' encompassed a wide range of alterations in design and that it was the planning officers' responsibility to weigh up the effects of this.

It was proposed that the Communities Scrutiny Committee recommend receiving independent legal advice from a barrister, of its choice, who specialised in the environmental and constitutional areas.

The Monitoring Officer added that, as the matter was regarding interpreting and implementing the Constitution, objective advice had been presented and the matter need not be taken further. He outlined that the role and responsibility had been placed on him as Monitoring Officer (which the Committee could not delegate or replace) to interpret the Constitution. As regards the scrutiny procedure, how it scrutinised was up to the Scrutiny Committee. However, in terms of commissioning a barrister, there must be clarity about what needs to be commissioned and to what end.

In response to the proposal, the Chair highlighted that the Scrutiny Committee had neither the power nor the direct resources to undertake an inspection, but did have the right to ask the Cabinet Member for the Environment to commission an independent report which would convey a positive message to the public that lessons were being learnt.

It was proposed and seconded to accept the report, but that further information was needed regarding clear definitions of what alterations were.

The Monitoring Officer noted that it was possible to review / adapt the delegation procedure if required, and look further into the specific thresholds by evaluating the information.

An amendment was proposed that a barrister was needed to look at the situation independently.

The Monitoring Officer explained again that it was inappropriate to ask for the advice of a barrister as it was his responsibility to give opinion on the constitutional process.

The amendment to the proposal was not seconded and was not allowed.

A vote was taken on the original proposal. The proposal fell.

The Chair accepted the proposal which was seconded to request a further report on the Delegation Scheme which would consider the basic matters, the thresholds for receiving an application to vary conditions, the thresholds of the delegation scheme to be submitted before the next Committee. It was suggested that the Head of Environment Department, the Cabinet Member for the Environment and the Head of Legal Services provide a joint report which would respond to the Members' observations as well as consider the information and evidence submitted to the Committee.

In response to an observation regarding referring the matter to the Ombudsman, it was noted that complainants alone could take the matter to the ombudsman if a personal unfairness had been experienced (and within an appropriate timeframe). It was repeated that Councillors could not complain about their own Council.

It was proposed and seconded to defer the discussion and to obtain an update to the report at the next meeting for further consideration. A request was made for the report to reflect the concerns of the members, the officers' observations, evidence submitted by

Councillor Gruffydd Williams together with the way forward to challenge the relevant policies.

**RESOLVED to defer the matter until the meeting of 7 February 2019 and to receive a further report which would address the matters raised in the abovementioned discussion.**

## **8. GWYNEDD COUNCIL'S SMALLHOLDINGS ESTATE**

A report was presented by the Senior Property Manager detailing the principles of managing the Council's smallholdings estate. It was noted that, in 2008, a comprehensive review had been held to look at the purpose of the estate, its financial performance and the management arrangements. A decade had passed since the review, therefore it was considered timely to revisit the field and confirm the logic behind the importance of continuing to provide the County's smallholdings.

It was reported that an officer within the Estates Unit had been released to assist with the work of managing the Council's smallholdings which had allowed the unit to give more attention to matters relating to increasing rent income and dealing with a number of contractual matters which were awaiting attention. It was added that this resource was only a temporary arrangement and had been at the expense of performance in the Estates Unit's other work fields.

Members were reminded that the Cabinet Member for the Environment had responsibility for making operational decisions on managing smallholdings with advisory panels set up to assist with matters such as empty holdings or bringing tenancies to an end. It was highlighted that there was a panel for Meirionnydd and a Panel for Dwyfor.

It was noted that the estate's financial position had changed greatly over the last decade and the estate was now self-sufficient and generated an income to the Council above running costs. It was added that should there be a wish to reinvest in the estate this would lead to the need to find an equivalent saving in another field. Should the income increase in future (through rent reviews or by transferring to new terms under modern arrangements) allocating the additional amount to be reinvested in the estate could be considered.

During the ensuing discussion the following points were highlighted by individual Members:

- That the long-awaited report / update was to be welcomed
- That smallholdings contributed to keeping young people in our rural communities giving them an opportunity to work within farming
- There was a suggestion to retain the staff resource and keep the profit in order for expenditure to be reinvested on improvements. Some of the houses were in a very poor condition.
- Consider targeting some of the houses that needed a lot of work doing to them
- A suggestion was made to establish a cross-County panel to ensure farming expertise
- If there was a request for the tenant to invest in the building, more certainty than 5 years must be given to the tenant
- A suggestion was made to let the land
- There was a need to agree on the terms of reference and hold discussions to prioritise expenditure
- There was a suggestion to establish an arm's-length company to attract capital / grant funding as a way forward to improve and modernise standards. Managing smallholdings was not a statutory requirement, therefore, ensuring that the estate

was self-sufficient was essential.

- With setting a definite retirement age of 65, this clause must be reviewed in order to ensure that the tenant would be given an opportunity to do a business plan and act in line with legal requirements.

In response to a question regarding the stringent guidelines for the statutory requirements of housing standards, it was noted that there was a statutory responsibility on the property department to address these requirements. It was reiterated that the Council had one maintenance source and it was difficult to prioritise the need. It was noted that the Unit was meeting the 'fit and suitable' element but did not meet the resource to raise standards.

In response to a question regarding ensuring succession / inheritance, it was highlighted that a succession support policy was under consideration

A proposal was made and seconded to establish one cross-County panel with a clear constitution and broader terms of reference with the intention, in the longer term, of considering a viable arm's-length company. The need to retain the temporary staff resource was reiterated and that any profit, beyond what had been allocated, was reinvested in the estate.

#### **RESOLVED TO ACCEPT THE REPORT**

- **To establish one cross-County panel with a clear constitution and broader terms of reference**
- **To consider establishing an arm's length company in the longer term**
- **To retain the temporary staff resource**
- **Any profit, beyond the figure that was allocated, is reinvested in the estate.**

The meeting commenced at 10:30am and concluded at 13:50pm.