

**CABINET**

Minutes of a Remote meeting held on 12<sup>th</sup> April, 2021.

The Committee agenda is available [here](#).

Present: Councillor N. Moore (Chairman); Councillor L. Burnett (Vice-Chairman); Councillors B.T. Gray, K.F. McCaffer, Mrs. M.R. Wilkinson and E. Williams.

Also Present: Councillors Mrs. C.A. Cave, G. John and Dr. I.J. Johnson.

**C541 APOLOGY FOR ABSENCE –**

This was received from Councillor P.G. King.

The Cabinet then observed a minute's silence to mark the passing of His Royal Highness The Prince Philip, Duke of Edinburgh, and passed on their condolences to the Queen and the Royal family.

**C542 MINUTES –**

RESOLVED – T H A T the minutes of the meeting held on 22<sup>nd</sup> March, 2021 be approved as a correct record.

**C543 DECLARATIONS OF INTEREST –**

No declarations were received.

**C544 STATEMENT –**

The Executive Leader and Cabinet Member for Performance and Resources commented that COVID-19 remained an issue, although the infection figures had continued to come down. He asked that anyone who had been offered a vaccination to please take up that offer in order to keep themselves, friends, family and communities safe.

**C545 CARDIFF BAY ADVISORY COMMITTEE –**

The minutes of Cardiff Bay Advisory Committee meeting held on 3<sup>rd</sup> March, 2021 as contained within the agenda were submitted.

The Leader noted there had been discussion concerning cycle paths around the Penarth Marina which had been addressed in the minutes. The Deputy Leader said she had been able to clarify some misunderstandings concerning Active Travel routes around the Marina.

RESOLVED – T H A T the minutes of the Cardiff Bay Advisory Committee held on 3<sup>rd</sup> March, 2021 be noted.

Reason for decision

In noting the minutes.

**C546 ANNUAL DELIVERY PLAN MONITORING REPORT: QUARTER 3 PERFORMANCE 2020/21 (L/PR) (SCRUTINY – ALL) –**

The performance report presented the Council's progress at Quarter 3 (1<sup>st</sup> April to 31<sup>st</sup> December, 2020) towards achieving its Annual Delivery Plan (2020/21) commitments as aligned to its Corporate Plan Well-being Objectives.

Despite the ongoing challenges of responding to the global COVID-19 pandemic, the Council had made positive progress in delivering its in-year commitments in relation to its Annual Delivery Plan (2020/21). This performance had contributed to an overall Amber status for the Plan at Quarter 3 (Q3).

All four Corporate Plan Well-being Objectives were attributed an Amber performance status at Q3 to reflect the progress made to date. This was positive given the unprecedented challenges the Council continued to face.

70% (161 out of 231) of planned activities outlined in the Council's Annual Delivery Plan had been attributed a Green performance reflecting the positive progress made during the quarter, under challenging circumstances. 24% (55) of planned activities were attributed a Red status.

Of the 55 actions attributed a Red performance status during the quarter, 91% (50) were directly as a result of service reprioritisation measures undertaken in response to the impact of the ongoing COVID-19 pandemic. In relation to these areas, where appropriate, work was now recommencing as part of the Council's recovery plans and strategy. Progress in relation to Coronavirus recovery had been reported to Members in the presentation accompanying the Q3 performance reports at Scrutiny Committees and focused on highlighting issues pertinent each Committee's remit. The Coronavirus recovery update would continue to form part of quarterly performance reporting going forward to ensure Members maintained an oversight of the recovery issues impacting on the work of their respective Committees and across the Council in general.

Of the 64 quarterly performance measures aligned to the Council's Corporate Plan Well-being Objectives, data was reported for 38 measures where a performance status was applicable. 68% (26) measures were attributed a Green performance Status, 8% (3) an Amber status and 24% (9) a Red status. Data was unavailable for 9 quarterly measures due to reprioritisation measures undertaken in response to the impact of the ongoing COVID-19 pandemic. A performance status was not applicable for 118 measures including a number of annual indicators (101), those establishing baseline performance for the year (8) and those due to reprioritisation

measures undertaken in response to the impact of the ongoing COVID-19 pandemic (9).

In relation to the 9 measures attributed a Red performance status during the quarter, the impact of COVID-19 had contributed to missing target in each case.

All five Scrutiny Committees had reviewed Q3 performance reports between 9<sup>th</sup> and 17<sup>th</sup> March, 2021 and upon consideration, had noted the performance results and progress to date in relation to the Annual Delivery Plan 2020/21 and Coronavirus recovery.

The report sought Cabinet's consideration of the views and recommendations of Scrutiny Committees in relation to Q3 performance and approval of identified remedial actions as the basis to address areas of underperformance and to tackle the key challenges identified.

In addition, Cabinet was requested to note overall service performance results to date and progress made towards achieving the priorities in the Council's Annual Delivery Plan 2020/21 and in relation to Coronavirus recovery.

The Deputy Leader said it was important to remember that the period the report covered was during the centre of the pandemic. She commended and recognised the work of library staff whose buildings may have been closed but staff remained active, working in community libraries, assisting with digital services, Dinas Powys library assisted the setting up an online art club, Wenvoe library set up an online daily Advent Calendar and Rhoose Library set themselves up as an online charity on Amazon Smile. Staff also volunteered to be repurposed to assist with the distribution of around £50m of business grant funding, as well as working to provide a further 2,500 IT devices to pupils and teachers to accompany the 4,000 devices already provided by ICT.

Re-cabling had also taken place at 18 schools in the Vale of Glamorgan to ensure that all schools could meet the target to be digitally enabled. The Deputy Leader concluded that if people wished to know more about what had been happening in libraries, the Library Service would be presenting to the Learning and Culture Scrutiny Committee on 15<sup>th</sup> April, 2021.

This was a matter for Executive decision.

With the addition of a further recommendation Cabinet, having considered the report and all the issues and implications contained therein

RESOLVED –

(1) T H A T the performance results and progress towards achieving the Annual Delivery Plan 2020/21 commitments as aligned to the Council's Corporate Plan Well-being Objectives as presented in the report and appendices be noted and endorsed.

(2) T H A T the views and recommendations of all Scrutiny Committees in relation to Q3 performance results and approve identified remedial actions as a basis to

address areas of underperformance and to tackle the key challenges identified be noted.

(3) T H A T the progress being made through the Council's Recovery Strategy and Directorate Recovery Plans in response to the ongoing Coronavirus pandemic be noted and endorsed.

(4) T H A T all staff and Officers be thanked for their work carried out in difficult circumstances during the COVID-19 pandemic.

#### Reasons for decisions

(1) Having regard to the contents of the report and discussions at the meeting.

(2) To ensure the Council was effectively assessing its performance in line with the requirement to secure continuous improvement outlined in the Local Government Measure (Wales) 2009 and reflecting the requirement of the Well-being of Future Generations (Wales) Act 2015 that it maximised its contribution to achieving the well-being goals for Wales.

(3) To ensure Cabinet maintained an oversight of the recovery issues impacting on the work of the Council.

(4) To thank all staff for their positive contribution during the COVID-19 pandemic.

#### **C547 SERVICE PLANS AND TARGET SETTING TO DELIVER THE VALE OF GLAMORGAN ANNUAL DELIVERY PLAN (IMPROVEMENT PLAN PART 1) 2021/2022 (L/PR) (SCRUTINY – ALL) –**

The report presented the Council's Service Plans and associated service improvement targets for 2021/2022. These set out the specific areas of focus associated with the delivery of the Council's Annual Delivery Plan (Improvement Plan Part 1) for 2021/2022 as aligned to its four Corporate Plan Well-being (Improvement) Objectives.

In progressing the Annual Delivery Plan, it would help meet the Council's statutory obligations under the Local Government (Wales) Measure 2009 (the Measure) and the Well-being of Future Generations (Wales) Act 2015 (WBFG Act). Both pieces of legislations placed specific duties on the Council in relation to objective setting and reporting. Under the Well-being of Future Generations (Wales) Act, the Council was required to publish its Well-being Objectives by 31<sup>st</sup> March each year and to keep these under review. Under the Measure, the Council also had to set annual Improvement Objectives and publish these as soon as possible at the start of the financial year.

The Local Government and Elections (Wales) Act 2021 would replace the performance provisions associated with the Measure and would place similar duties on Local Authorities. The final performance report from the Measure would be

published by 31<sup>st</sup> October, 2021 in the Council's Annual Review of Performance (Part 2 Improvement Plan) 2020/2021. It was felt prudent to ensure the Annual Delivery Plan (ADP) met the existing duties prescribed by the Measure and the latest guidance associated with the Local Government and Elections (Wales) Act 2021.

In line with the Council's duties under the WBFG Act (and those defined in the forthcoming Local Government and Elections (Wales) Act 2021), the Council continually reviewed the relevance of its Well-being Objectives and the current Objectives were agreed in 2020 as part of the development on the Corporate Plan 2020-25. Those Objectives had been reviewed as part of end of year performance work to produce the Council's self-assessment and annual review of performance (Part 2 Improvement Plan 2019/20) as well as in the development of the Council's Coronavirus Recovery Strategy. The Council had also consulted on its Well-being Objectives as part of the engagement work on developing its Annual Delivery Plan for 2021/2022 and overall, majority of respondents agreed with the Council's Well-being Objectives. As a result, going forward into 2021/2022, the Council was assured that its Corporate Plan Well-being Objectives and the associated commitments outlined in the Annual Delivery Plan 2021/2022 (approved by Cabinet on 8<sup>th</sup> March, 2021 and contained in the background papers appended to the report) were relevant in delivering improved outcomes for Vale of Glamorgan residents and contributed to the national Well-being Goals.

The Annual Delivery Plan and Service Plans together detail the activities that would be undertaken in 2021-22 to deliver the Council's Well-being Objectives within the context of the current COVID-19 pandemic and the Council's Recovery Strategy.

The commitments in the Annual Delivery Plan were reflected in the Service Plans (Appendix A to the report) together with proposed service improvement targets (Appendix B to the report) to show how individual service areas would contribute to their achievement and overall delivery of the Council's four Well-being Objectives.

All Scrutiny Committees had considered the Service Plans and service improvement targets relevant to their respective Committee remits during 9<sup>th</sup> March – 17<sup>th</sup> March, 2021 as the primary documents against which performance for the Annual Delivery Plan (Improvement Plan Part 1) 2021/2022 would be monitored and measured.

Informed by the views and recommendations from Scrutiny Committees, Cabinet was asked to review and approve the Service Plans and service improvement targets for 2021/2022.

Approving the Service Plans and service improvement targets for 2021/2022 alongside the recently approved Annual Delivery Plan (Cabinet minute C503, 8<sup>th</sup> March, 2021), would enable the Council to fully discharge its statutory duty to set and publish its Well-being (Improvement) Objectives and outline how it proposed to meet these Objectives in-year.

Publication of the Annual Delivery Plan (Improvement Plan Part 1) 2021/2022 would take place via a variety of media (including social media) following approval of the Annual Delivery Plan (Improvement Plan Part 1) by Council on 26<sup>th</sup> April 2021, which would ensure the Council was complying with its statutory duties.

Progress against the Council's Improvement Plan priorities for 2021/2022 contained within the Annual Delivery Plan, Service Plans and service improvement targets would be monitored and reported quarterly in line with Corporate performance monitoring arrangements.

This was a matter for Executive decision.

With the addition of a further recommendation Cabinet, having considered the report and all the issues and implications contained therein RESOLVED –

(1) T H A T the Service Plans (attached at Appendix A to the report) and associated service improvement targets as the primary documents against which performance for the Annual Delivery Plan (Improvement Plan Part 1) 2021/2022 would be monitored and measured be approved.

(2) T H A T the proposed service improvement targets aligned to the Corporate Performance Measures Framework for 2021/2022 (attached at Appendix B to the report) be approved.

(3) T H A T the contributions as made in Appendix C to the report and the amount of work that had gone in to address the Plan itself be noted with thanks.

(4) T H A T delegated authority be granted to the Managing Director, in consultation with the Leader, to update the Service Plans and associated service improvement targets with any amendments post Council.

#### Reasons for decisions

(1) To ensure that the Service Plans and associated improvement targets reflected the commitments in the Annual Delivery Plan 2021/2022 and would enable the Council to demonstrate progress towards achieving its in-year commitments.

(2) To ensure the Council's Corporate Performance Measurement Framework identified a relevant set of performance measures and targets against which the Annual Delivery Plan could be monitored and measured during 2021/2022 in line with requirements of the Local Government (Wales) Measure 2009 and the Well-being of Future Generations (Wales) Act.

(3) Having regard to the contributions as made in Appendix C to the report.

(4) To ensure the Service Plans and associated Corporate Performance Measures Framework, as key documents against which performance for the draft Annual Delivery Plan would be monitored and measured during 2021/2022, were accurate and had the most up to date information.

**C548 USE OF THE MANAGING DIRECTOR'S EMERGENCY POWERS (L/PR) (SCRUTINY – ALL) –**

The Leader presented the report, the purpose of which was to advise Cabinet of the exercising of Emergency Powers by the Managing Director since the last report on 22<sup>nd</sup> February, 2021.

The Leader specifically highlighted the Residential Homes Visitor Pods, ICF Capital Grant, Penarth Pier Pavilion and the Green Infrastructure Project as examples of some of the urgent work that needed to be carried out.

The Deputy Leader said that Emergency Powers were often used when grant funding was received or an initiative that required an urgent decision to be taken, within a short timescale. The Deputy Leader also stated that had Councillor King been able to attend he would have drawn attention to the Road Safety 20mph pilot at St. Brides Major. The Deputy Leader further advised that officers had been able to complete the listed works during a pandemic, further noting the award of funding of £2.258m in relation to the Capital Funding Grant towards Schools Maintenance Budgets.

Councillor Gray echoed the comments of the Deputy Leader regarding the use of t Emergency Powers highlighting that they were used when matters were time sensitive, but grant funding often became available at the end of the financial year and action had to be taken quickly, hence the long list of decisions contained within the report. Action had been required quickly with regard to the visitor pods in Care Homes and use of other capital money to make those facilities more dementia friendly and provide support for vulnerable residents as moves were made towards being able to allow visitors in some form to assist with mental health and wellbeing.

This was a matter for Executive decision.

Cabinet, having considered the report and all the issues and implications contained therein

RESOLVED – T H A T the use of the Managing Director's Emergency Powers be noted as contained within the report.

Reason for decision

To note the exercising of Emergency Powers by the Managing Director since the last report on 22<sup>nd</sup> February, 2021.

**C549 REQUEST BY NEWYDD HOUSING ASSOCIATION TO PURCHASE THE COUNCIL'S FREEHOLD INTEREST AT ST. GARMON ROAD, PENARTH (HBS) (SCRUTINY – HOMES AND SAFE COMMUNITIES) –**

The Council had received a formal request from Newydd Housing Association (Newydd) to purchase the freehold of their Social Housing Development at St. Garmon Road, Penarth.

The estate comprising of 66 Social rented homes was built in 1989 to provide much needed housing in the Penarth area. The land was leased to Newydd by the Council for a term of 125 years and under the terms of the lease Newydd covenanted to provide 100% nomination rights to the Council. Newydd also covenanted to pay to the Council a percentage of future rental income net of repairs and improvements to compensate for the opportunity cost of sale for private development.

However, under the Leasehold Reform Act 1967 and subsequent legislation namely the Commonhold and Leasehold Reform Act 2002, Newydd had the "right to buy" the freehold of the land and each individual home through a process known as enfranchisement.

This was a cumbersome route and costly for both purchaser and the Council as each individual home would have to be enfranchised and valued together with the issuing of formal notices and responses.

Officers had sought legal and estates advice and had discussed the potential to negotiate an agreed valuation for the sale of the freehold on terms to be agreed.

It would be necessary to obtain the consent from Welsh Government to authorise the transfer of the land as the General Consent under s.32 of the Housing Act 1985 only allowed disposal of vacant properties to Housing Associations.

The report highlighted the issues involved and requested agreement to proceed with the sale of the freehold interest through negotiation.

This was a matter for Executive decision.

Cabinet, having considered the report and all the issues and implications contained therein

RESOLVED –

(1) T H A T the request from Newydd Housing Association to purchase the Council owned land known as St. Garmon / St. Dyfrig Road, Penarth on a negotiated basis or alternatively to exercise the right to buy the land in line with the provisions of The Leasehold Reform Act 1967 and The Commonhold and Leasehold Reform Act 2002 through enfranchisement be noted.

(2) T H A T delegated authority be granted to the Director of Environment and Housing, in consultation with the Cabinet Member for Housing and Building Services, Head of Finance and the Monitoring Officer / Head of Legal and Democratic Services, to dispose of the parcel of land by the most appropriate means and on terms and conditions to be agreed to Newydd Housing Association subject to securing the necessary consent of Welsh Government Ministers to dispose of the land pursuant to s.32 Housing Act 1985.

(3) T H A T the Monitoring Officer / Head of Legal and Democratic Services be authorised to prepare, complete, and execute the required legal documentation to formalise the disposal of the Freehold interest.

### Reasons for decisions

- (1) To comply with the statutory provisions.
- (2) To ensure that the Council obtained best consideration for the land in accordance with its statutory and fiduciary obligations and obtained necessary consent from Welsh Government.
- (3) To legally formalise the disposal of the land.

### **C550 SECTION 106 PROTOCOL CALL-IN: THE ALLOCATION OF THE SECTION 106 SUSTAINABLE TRANSPORT CONTRIBUTION, RECEIVED FROM THE DEVELOPMENT REFERRED TO AS LAND TO THE REAR OF ST. DAVID'S PRIMARY SCHOOL, COLWINSTON (PLANNING REFERENCE 2014/00242/FUL) (LRPS AND NST) (SCRUTINY – ENVIRONMENT AND REGENERATION) –**

The Council had an adopted Section 106 Protocol for Implementation. This Protocol ensured that relevant Cabinet Member(s), Service Area(s) and Local Ward Member(s) were consulted with upon the receipt of a Section 106 contribution. It was for the relevant Service Area to put forward an appropriate scheme for each Section 106 contribution taking into consideration the needs arising from the new development, and in compliance with the legal definition. Members were then notified of final proposals. The final decision was made by the Head of Planning and Regeneration, and if there was any disagreement, any Elected Member had 14 days to request the decision was called in by Cabinet to determine. The Protocol was outlined in Appendix A to the report.

The Council had received a financial contribution secured via a Section 106 Agreement from the development at land to the rear of St. David's Church in Wales Primary School, Colwinston, equalling £132,191.52 (planning reference 2014/00242/FUL refers). The contribution was legally defined and could only be used by the Council to provide or improve Sustainable Transport Facilities serving the Development.

It had been proposed to spend the contribution as follows: £5,000 allocated to Greenlinks and community transport. The balance (£127,191.52) towards a pedestrian improvement scheme outside of the school, to link the school with play area / community centre (see plan at Appendix B to the report).

Councillor Mrs. Cave had requested that the proposal for this S106 Sustainable Transport contribution be called in for the determination by Cabinet, in accordance with the adopted Section 106 Protocol call-in process.

Councillor Mrs. Cave had indicated in her call-in request that the scheme should take into consideration the movement of the electricity substation, which was located in the adopted highway verge, adjacent to the St. David's Church in Wales Primary School.

It was considered that the relocation of the substation was not required to provide safe and practicable sustainable transport enhancements to support the developments at Heol Cae Pwll and the replacement Primary School.

Officers had raised significant concerns that the cost of relocating the substation was unreasonable and would not meet the definition of "Sustainable Transport Facilities" as defined within the Section 106 Agreement. The fifth schedule made provisions for repayment of contributions (with interest) that had not been spent in accordance with the legal agreement within five years of payment.

Officers recommended that the proposals, as outlined in Appendix B to the report, be progressed to detailed feasibility, design and thereafter implementation, using the balance of the Section 106 Sustainable Transport contribution £127,191.52. Any balance remaining would be considered for future schemes, following the detailed feasibility and design of this scheme.

The Cabinet Member added that Councillor Mrs. Cave had met with Western Power Distribution and there may be an option to re-orientate the Substation at minimal cost, with those costs yet to be advised but was not relevant to the use of Section 106 Sustainable Transport usage discussed in the report.

Councillor Gray understood the issues contained in the report in terms of conditions for the application and spend of Section 106 funding advising that as was often the case in Planning, there was a need to recognise how the Section 106 monies were able to be spent, which in this case was a separate issue to any matter concerning the Substation. The report noted that the Section 106 monies could not be used as had been suggested in the call-in and therefore supported the recommendation within the report.

The Deputy Leader added that there had also been requests made to defer the report for further consideration and a site visit, however the two issues were separate as it was not possible to use Section 106 Sustainable Transport for the issue raised within the call-in. The Deputy Leader further commented that moving the recommendations at Cabinet would not preclude subsequent discussions regarding the Substation.

The Leader referred specifically to paragraphs 2.15 and 2.16 within the report which specifically confirmed that it would not lawfully be able to spend Section 106 Sustainable Transport money on a scheme to relocate the Substation. Councillor Mrs. Cave and Jane Hutt MS had requested a postponement, but if there were negotiations going on concerning moving the Substation at a cost to be determined, that discussion would not be precluded from taking place if the report before Cabinet was to be determined it could not involve the use of Section 106 Sustainable Transport monies. The contribution had to be spent legally and within the specified timetable and therefore the Leader also supported the recommendation within the report. The Leader noted that the matter had been referred to Cabinet under the Section 106 Protocol for final determination.

This was a matter for Executive decision.

Cabinet, having considered the report and all the issues and implications contained therein

RESOLVED – T H A T the Council's Highway Department be authorised to progress the scheme identified in Appendix B to the report, to detailed feasibility, design and implementation, using the balance of the Section 106 Sustainable Transport contribution (£127,191.51) received from the development at land to the rear of St. David's Church in Wales Primary School, Colwinston (received pursuant to planning reference 2014/00242/FUL).

Reason for decision

To satisfy the terms of the Section 106 Agreement and Condition 14 of planning permission 2020/00742/RG3 and ensure the provision of a satisfactory pedestrian improvement scheme outside of St. David's Church in Wales Primary School.

**C551            ADOPTING TOGETHER SERVICE (SCH) (SCRUTINY – HEALTHY LIVING AND SOCIAL CARE) –**

As lead Authority for the Vale, Valleys and Cardiff Adoption Collaborative (VVC), the report sought authority to renew the Adopting Together Service Level Agreement to enable contractual provisions to be agreed to facilitate placements via the Adopting Together Service on behalf of partner Authorities.

Securing adoptive placements for children requiring adoption was a function delegated to the Collaborative by its partner agencies, although case responsibility for the child remained with the placing Authority.

In 2019, it was agreed that there was a need to formalise the contractual arrangements between the placing Authorities and Adopting Together by way of a Service Level Agreement. VVC, under the terms of the Agreement underpinning the Collaborative, were not permitted to enter such arrangements with Adopting Together on behalf of the partner Authorities without the necessary authority being in place.

On 17<sup>th</sup> June, 2019, Cabinet agreed to VVC entering into such an agreement on behalf of its partner Authorities. This agreement now needed to be renewed to enable the service delivery to continue.

The Cabinet Member said that this had been an effective service, particularly for children who presented with additional needs.

This was a matter for Executive decision.

Cabinet, having considered the report and all the issues and implications contained therein

RESOLVED –

(1) T H A T Cabinet agree to renew, for a period of five years from the expiry of the previous Service Level Agreement, for the Vale of Glamorgan Council, as lead Authority for the Collaborative, to enter into contractual arrangements with St. David's Adoption Agency and Barnardos Cymru for the provision of placements for hard to place children.

(2) T H A T delegated authority be granted to the Head of Children and Young People Services and the Monitoring Officer / Head of Legal and Democratic Services to agree terms and enter into forms of contract with the said bodies under the Adopting Together Service.

Reasons for decisions

(1) To enable continuity of service provision over a sustained period of time. There was an ongoing need to continue the current contractual arrangements to provide clarity of expectations, roles, responsibilities of partner agencies and the provider of the service.

(2) To enable contractual arrangements to be agreed and executed to ensure an ongoing commitment to the service.