



Cyngor Castell-nedd Port Talbot
Neath Port Talbot Council

Appendix 2

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

Governance and Audit Committee

Date: June 24th 2021

Report of the Chief Executive

Matter for Information

Wards Affected:
All Wards

Report Title: Independent, External Assurance Reports – Action plan to respond to the findings and recommendations

Purpose of the Report:

1. To present the evidence gathered, findings and recommendations made subsequent to the conduct of a review conducted by Mr Rod Alcott and Mr Jack Straw in relation to aspects of the Council's governance arrangements.
2. To present an action plan that responds to the findings and recommendations of the independent, external assurance work undertaken by Mr Rod Alcott and Mr Jack Straw.

Background:

I presented a report to the Council's Audit Committee on 15th March 2021 which advised that I had commissioned an external, independent review of governance arrangements subsequent to an

edited audio recording of the former Leader of Council being released on social media platforms.

The terms of reference I set for the review are reproduced at Appendix 1 for ease of reference.

I gave the Committee an undertaking that the findings and any recommendations of that review would be presented back to the Committee when available. This report discharges that undertaking. The reports that I have received from the reviewers - Mr Rod Alcott and Mr Jack Straw – are attached in the private annexe to this report. Mr Alcott and Mr Straw will be present at the Committee to discuss their findings and recommendations.

Members are asked to note that the reports have been shared with the Auditor General and the Public Services Ombudsman to assist them in the discharge of their own responsibilities in relation to this matter.

I have also prepared an action plan to respond to the findings and recommendations which is attached at Appendix 2. I will be sharing my action plan with the Auditor General and also asking the Internal Audit Service to make provision within their forward audit programmes to make periodic checks on the operation of the revised arrangements that I am putting into place. This will mean that the Governance and Audit Committee will have an overview of the progress being made in strengthening arrangements further to take on board the learning from the review undertaken.

Findings

The findings and recommendations of the independent external review are set out below. The text is a direct extract from the reports presented to me by Mr Rod Alcott and Mr Jack Straw:

a) **Allt Y Grug and the Highways and Engineering Works Programme**

From the evidence that has been provided to us it is clear that:

- at the time the work was carried out the total budget for Highways and Engineering Works Programme was circa £1.850M and the total requests for work to be carried out exceeded the finite budget available to undertake them;
- requests for unplanned work were taken to Capital Programme Steering Group (CPSG) for consideration for allocation from a contingency fund;
- the condition of the road meant it would benefit from remedial work; and
- undertaking this remedial work was a priority for the Leader of the Council.

In a situation where demand exceeds supply then for every project that is undertaken there is an opportunity cost in terms of other projects that cannot go ahead. This necessitates making choices as to which projects go ahead and which do not – essentially prioritising some projects over others.

The remedial work undertaken on Allt Y Grug Road was considered by officers to be '*reasonable and proportionate*' and to represent '*a community 'well-being' issue*'. While such considerations are necessary in the decision-making process, they are not sufficient in themselves to justify prioritising this work over other competing projects. There are processes in place relating to the bulk of capital work within the Highways & Engineering Works programme and revenue work including reactive/unplanned maintenance including intervention limits/criteria is covered by the Council's Highway Maintenance Plan. Unplanned capital works are subject to an allocation process overseen by CPSG. However, there is no evidence that proposed, and in effect competing, unplanned

capital projects were subjected to a transparent process of prioritisation based on objective criteria as part of this allocation process.

The absence of such a prioritisation process represents a flaw in the Council's current systems and processes in relation to the programming of highways works and capital investment projects; and means that there is no evidence to demonstrate how the relative merits of this project versus others was established. This needs to be rectified to ensure that future decision making is objective and transparent and cannot be subject to any allegations of undue influence from any quarter.

Whilst officers have retrospectively said the project was justified; the lack of objective criteria for decision making, compounded by the absence of a recorded decision, leaves the authority open to the accusation of undue influence, particularly given the email exchanges referring to '*Leader priority*' and '*which budgets you have raided*'.

While there were no objective criteria for decision making in place at the time the decision was made to go ahead with the remedial work, there was a hierarchical set of principles in place to guide decision making. This can be summarised as:

1. Some needs must be met, for example, if they are causing safety problems.
2. Other items can be desirable (with a more or less of a degree of urgency).
3. Other things are otherwise flagged to meet a community need and would be 'good to have'.

The rationale advanced for proceeding with work on the road, as recorded in the email exchange of 30 November 2017, was given as '*addressing the lane has become a community 'well-being' issue to which we are looking to respond*'. In the context of the principles outlined above this would appear to fit most closely with

meeting a community need and being nice to have rather than a priority for action. As such one would not have expected the scarce resources of the contingency fund to have been used to meet this need.

During the course of this investigation it also become clear that the CPSG does not have up to date Terms of Reference and this represents a further potential weakness in terms of the governance arrangements surrounding decision making in this area of the Council's business.

Recommendations:

The Council needs to:

- Develop a comprehensive transparent evidence-based prioritisation matrix based on agreed, objective criteria against which all competing projects can be compared, and decisions regarding their adoption or rejection clearly demonstrated. It is for the Council to determine the criteria for inclusion or non-inclusion (for example in the case of emergencies and the exercising of judgement by officers) of projects within this process along with the judgement criteria upon which decisions are made.
- Develop a Terms of Reference for the CPSG that clearly defines their purpose and delineates their role in the governance and decision-making process.
- Develop a culture where there is an acceptance that verbal reports are the exception, to be used when there is no time to prepare written reports, and written reports are the norm. It is for the Council to determine the extent to which formal reports are required taking into account the scale of the project.
- Ensure that the reasons for decisions are recorded in the minutes of meetings.

It is the view of the authors that this report and all the documentation that formed the evidence base should be forwarded to the Ombudsman to assist in his determination.

b) Cefn Coed - A summary of findings from the investigation:

The evidence that has been provided to us demonstrates that:

- there was initial member support for the project including acceptance of the associated costs;
- the issue of WG ownership was flagged up as a potential risk;
- due diligence and site surveys were undertaken in response to this identified risk;
- findings from the preliminary due diligence and site survey work raised a number of issues;
- consideration of these issues led to the recognition of the need to develop a revised scheme dependent upon comprehensive due diligence based upon commissioning a wide range of surveys;
- personnel re-designation as a result of the pandemic delayed completion of due diligence and meant that the March 2021 deadline could not be met;
- agreement was reached with WG that they would cover the cost of surveys that had been commissioned; and
- the Council is now able to develop proposals for a deliverable scheme when a similar round of funding next becomes available.

Based upon the evidence received, and summarised above, the Council has followed a logical process and made reasoned decisions. As a consequence the Council can take assurance from the systems and processes that were followed in relation to the Cefn Coed Museum project.

The only potential flaw is the apparent absence of recorded decisions to proceed with the project both in its initial format and subsequent potential revision.

Recommendations:

The Council needs to:

- Ensure that decisions to commit public funds, and the rationale for those decisions, are accurately recorded.

It is the view of the authors that this report and all the documentation that formed the evidence base should, if required, be forwarded to the Ombudsman to assist in his deliberations.

c) School Reorganisation - A summary of findings from the investigation:

From the evidence that has been provided to us it is clear that:

- the Council has a flexible approach to school re-organisation rather than a preferred model that it sets out to impose across the Authority in all circumstances;
- the Council had a well-established set of principles to guide the re-organisation process;
- the Council had appropriate project management arrangements in place;
- revisions to plans between initial outline proposals and final decision are not uncommon;
- delays in commissioning the desk-top review of potential landslip risks created subsequent problems of perception;
- elected member decision making was confined to approving the original Band B proposal, approving the revised SVP and allowing a formal consultation process to proceed;
- the decision to opt for a no risk approach with regard to the temporary re-location of pupils and staff from Godre'rgraig was a matter of judgement for members, officers and school governors;

- the failure to record the meeting at which this decision was made was a flaw in the process; and
- the Council's final decision has yet to be made pending consideration of a report on the outcomes from the formal consultation exercise;

School re-organisation will always arouse strong feelings, occasionally lead to judicial reviews, and leave some people disappointed. As previously stated the final decision has yet to be made and even if it had been made it would be outside of our remit to comment on the decision. Our remit was to consider the systems and processes in place to arrive at that decision. The evidence provided to us suggests that the Council can, overall, take assurance in relation to its current systems and processes surrounding the development of school reorganisation proposals in respect of compliance with the WG Schools Organisation Code process.

Assurance can be provided on the systems and processes followed to date i.e. up to the point of going out to formal consultation; but ultimately the Council has to be able to demonstrate that its final decision making is both transparent and based on an objective consideration of its four principles of:

- Standard of education provision;
- Need for and the accessibility of schools;
- Standard and suitability of school accommodation; and
- Finance

Recommendations:

While the Council can take overall assurance regarding its systems and processes it does need to ensure that:

- meetings where decisions are made, which have a significant impact on local citizens, are accurately recorded in the interests of openness and transparency.

Postscript:

An important element of the investigation brief was to examine the member/officer protocol which forms part of the Authority's constitution. The protocol follows a standard format and contains all the elements that would be expected. In that sense it is clearly fit for purpose. As with all such protocols it is behaviour dependent and relies on all parties being aware of its specific content and embedding the principles in day-to-day activity. The Authority has undertaken member training as would be expected and is undertaking refresher awareness training in line with good practice.

Financial Impacts:

There are no additional financial implications that arise from this report. Costs associated with the action plan can be met within the existing revenue budgets. The refresher training identified in the action plan is to be supported by the Welsh Local Government Association.

Integrated Impact Assessment:

There is no requirement to undertake an Integrated Impact Assessment as this report is for monitoring / information purposes.

Valleys Communities Impacts:

No implications.

Workforce Impacts:

The action plan identifies action to implement refresher training for both members and officers.

Legal Impacts:

There was no specific legal requirement to undertake this review.

Risk Management Impacts:

The Council has a clear framework in place to support its decision making. The Annual Governance Statement describes those arrangements and identifies, from assurance work undertaken each year, where governance arrangements might benefit from some strengthening. The Audit Committee has a role in overseeing that work. I considered it prudent to take an additional assurance about the current systems and processes that support decisions taken on school reorganisation; capital investment planning more broadly; and the protocol that governs member-officer relationships, given the nature of the incident referenced earlier in the report. The review has concluded that a number of elements of the current systems should be strengthened to provide a strong assurance that systems are robust.

This incident has attracted considerable public interest. This reflects on the reputation of the council. It was important that the review was carried out by credible people, external to the council so that there can be public confidence in the review, its findings and any recommendations. The Auditor General and the Public Services Ombudsman have been kept fully informed at all stages of the review process and all evidence gathered and the findings and recommendations have been openly shared with them.

Consultation:

There is no requirement for external consultation on this item

Recommendations:

1. That Members note the reports provided by the external reviewers.
2. That Members note the action plan that has been developed to respond to the findings and recommendations presented in the review reports.

3. That Members note that the Internal Audit Service will be asked to include provision within the forward audit programme to periodically test how the changes described in the action plan are being implemented and to support the Governance and Audit Committee in monitoring the progress being made.

Reasons for Proposed Decision:

To enable the Governance and Audit Committee to take additional assurance about key decision making process that support the Council's capital investment planning activities.

Implementation of Decision:

The decision is proposed for implementation after the three day call in period

Appendices:

Appendix 1 – Terms of Reference

Appendix 2 – Action Plan

Annexe 1 – Confidential annexe containing the full review reports.

List of Background Papers:

Report to Special Meeting of the Audit Committee – 15th March 2021

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