

SUBJECT OVERVIEW AND SCRUTINY COMMITTEE 3 - WEDNESDAY, 17 JANUARY 2018

**MINUTES OF A MEETING OF THE SUBJECT OVERVIEW AND SCRUTINY COMMITTEE 3
HELD IN COUNCIL CHAMBER - CIVIC OFFICES ANGEL STREET BRIDGEND CF31 4WB
ON WEDNESDAY, 17 JANUARY 2018 AT 09:30**

Present

Councillor JC Spanswick – Chairperson

SE Baldwin	TH Beedle	N Clarke	P Davies
DG Howells	A Hussain	RMI Shaw	RME Stirman
G Thomas	E Venables	MC Voisey	JE Williams

Apologies for Absence

DRW Lewis

Officers:

Gail Jewell	Democratic Services Officer - Scrutiny
Andrew Rees	Senior Democratic Services Officer - Committees

Invitees:

Fiona Blick	Group Manager Property
John Davies	Bryncethin RFC
Philip Jones	Bryncethin RFC
Zak Shell	Head of Neighbourhood Services
Mark Shephard	Corporate Director – Communities
Guy Smith	Community Asset Transfer Officer
Geraint Thomas	Clerk to Pencoed Town Council

20. DECLARATIONS OF INTEREST

The following declarations of interest were made:

Councillor RMI Shaw declared a prejudicial interest in agenda item 5 – Community Asset Transfer as he is the Chair (not elected Member) of Llangeinor HWB; Chair (elected Member) of Pontycymer Bowls & Garw Valley Tennis clubs and as a Steering Group Member of the TRC Garw Valley Sports Hub feasibility study which he sits as an elected Member.

Councillor G Thomas declared a prejudicial interest in agenda item 5 – Community Asset Transfer as he is a member of Bryncethin RFC and took no part in the discussion when the Chair and Vice-Chair of Bryncethin RFC were present at the meeting.

Councillor MC Voisey declared a personal interest in agenda item 5 – Community Asset Transfer as he is a Member of Bridgend Town Council.

Councillor SE Baldwin declared a personal interest in agenda item 5 – Community Asset Transfer as he is a Member of Bridgend Town Council.

Councillor N Clarke declared a personal interest in agenda item 5 – Community Asset Transfer as she is a Member of Porthcawl Town Council.

Councillor A Hussain declared a personal interest in agenda item 5 – Community Asset Transfer as he is a Member of Newcastle Higher Council.

Councillor JE Williams declared a personal interest in agenda item 5 – Community Asset Transfer as she is a Member of Pencoed Town Council.

Councillor RME Stirman declared a personal interest in agenda item 5 – Community Asset Transfer as she is a Member of Garw Valley Community Council.

21. APPROVAL OF MINUTES

RESOLVED: That the minutes of the meeting of the Subject Overview and Scrutiny Committee 3 of 22 November 2017 be approved as a true and accurate record.

22. FORWARD WORK PROGRAMME UPDATE

The Scrutiny Officer reported on items which had been prioritised by the Corporate Overview and Scrutiny Committee which included the next item delegated to this Committee to consider. She also presented a list of further potential items for comment and prioritisation and requested the Committee identify any further items for consideration using the pre-determined criteria form.

Conclusions

Following the Committee's discussions, Members determined the following in relation to the Overview and Scrutiny Forward Work Programme:

Regarding the Town Centre Regeneration item, Members have requested that the following representation be invited to the meeting in 12 February 2018:

- Cabinet Member – Education and Regeneration;
- Rhiannon Kingsley, Town Centre Manager;
- Representation from BID Company;
- Clerks from each town Council in the Borough;
- Trader Representation;
- Representative from a disability organisation;
- Representation from ABMU / Cwm Taf.

Regarding the Empty Housing item scheduled for 21 March 2018, Members have requested that the following information be included in the report request:

- That the report be titled Empty Properties and detail information on both commercial properties and housing;
- How many Section 215 notices have been used in relation to blight properties.

The item on the Waste Services Contract has been highlighted by the Committee as a priority to be presented to the Corporate Overview and Scrutiny Committee for formal prioritisation.

23. COMMUNITY ASSET TRANSFER

The Corporate Director Communities reported on the community asset transfer (CAT) policy which had been borne out of austerity measures and the need to preserve services. He stated that on reflection, there had been some successes in the transfer of some facilities, but some difficulties had been encountered in transfers being completed, due to their complexity and the capacity of organisations that are largely voluntary. He also informed the Committee that one of the issues affecting CAT is the existence of policies that to some extent conflict within the Council, for example the substantial

SUBJECT OVERVIEW AND SCRUTINY COMMITTEE 3 - WEDNESDAY, 17 JANUARY 2018

financial subsidy for the provision of playing fields and parks pavilions can serve as a disincentive to the CAT transfer of those types of facilities. He stated that it was the intention to review CAT in order to improve the process as part of the review of the change management funded 'CAT' post that was due to end in the autumn of this year.

The Committee was addressed by Mr Phil Jones of Bryncethin RFC to contribute to the discussions on CAT. He stated that Bryncethin RFC is nearing the end of the process and whilst it realised that any improvements to the process will not help Bryncethin Rugby Club, he felt it was important that the rugby club spoke of their experience in order to assist other clubs and organisations coming through.

However, the rugby club strongly believe that if the Council is going to carry out a worthwhile review then it must discuss all of the issues, whether they be positive or negative. For the rugby club's part, the process had been long and, at times, extremely frustrating and there were times when the rugby club came close to stepping away from it.

He stated that on paper the process looks fine, but the execution of that process has been poor, even allowing for the fact that it is the first transfer of its kind that the authority has undertaken. Bryncethin RFC submitted an Expression of Interest on 7 January 2015, and the lease had yet to be signed. Whilst the rugby club appreciate that all of the delays have not been caused by the Authority, their overall performance in this instant has not been satisfactory. In addition the rugby club believe that, unless it can be streamlined and become easier for applicants to manage, it will jeopardise the whole Asset Transfer scheme.

Bryncethin RFC has, over the last few months, applied for substantial amounts of funding from the Rural Communities Development Fund, the Rural Facilities Project, the Welsh Church Act Fund and the Welsh Rugby Union. There had been no refusals of funding to date, but the potential funders are all waiting for the lease to be in place before they will either confirm the funding or progress to stage 2 applications. The rugby club believe some of this funding could be at risk because of the time it is taking to secure the lease, but progress has continued to be slow.

Mr Jones stated that on a positive side, going forward for other organisations, the various stages that they will have to go through should now be far more refined and this should make things move more quickly. The rugby club feel that the original process was rushed through and not developed enough before it was invited to apply, which has led to some of the delays.

He stated that a lease has now been developed and, although this will need adjusting on a case by case basis, it should save time. From the rugby club's experience it could not understand why that, if another Authority has developed a lease that has been tested in practice, this could not be utilised as the basis for other Authorities. Also the go ahead to draw up the lease was not given until about 6 or 7 months ago, some 18 months after the application was made. He stated that the reason seems to be that the Authority did not want to incur costs until the rugby club's business plan had been approved and yet it was obvious that a lease would be required at some stage, even if it was not for the rugby club.

Mr Jones stated that the appointment of Guy Smith as CAT Officer has been a very positive move and if it were not for his appointment the rugby club would be even further behind in the process to where it is now. However, from the rugby club's experience so far, despite the CAT Officer's excellent efforts, he has struggled to get prompt responses

from the many departments that seem to be involved in the process, and this has meant that his impact has been less than it could have been.

In summary, the rugby club believe that there must be some indicative timescales that can be given to future applicants. He stated that while this was easier said than done, and it depends on a number of factors but, until this discipline is introduced into the process it will continue to drag on, which makes it impossible for applicants to Programme the timing of their funding application and any physical work to the asset.

Mr Jones stated that there must also be a genuine will for this process to be successful, and linked up and coordinated actions from all the individuals and departments involved. He hoped that Bryncethin RFCs experience will be a “one off” and the process would have served as a learning curve for all involved.

The Cabinet Member Communities thanked the officials of Bryncethin RFC for attending the Committee and sharing their experiences and hoped that lessons would be learnt by the Council, but stated that this particular CAT was not a straight forward one to start with as it involved developing a new facility on the site rather than simply taking over an existing asset. This also meant that the level of capital funding the Council was being asked to provide was greater than would normally be the case so the level of due diligence necessary was also significant. In those circumstances a lease could not be granted until there was sufficient comfort that the Authority had adequate assurances.

The Committee thanked the officials of Bryncethin RFC for their feedback and shared the rugby club’s frustrations that grant funding would not be forthcoming until a lease had been signed, which could deter other clubs and organisations from coming forward with CATs or walking away from the process. The Committee questioned whether the Council had learnt lessons and also asked why CATs had not been progressed. The Cabinet Member Communities informed the Committee that the delays in processing some CATs was attributable to a resource issues and one which might not easily be put right. A CAT officer had been appointed which meant that there was resource to liaise with clubs and town and community councils and promote CAT but other relevant departments such as legal and property had no additional resource for this purpose. He thanked the officials of Bryncethin RFC for the contribution they had made in what has been a very complicated CAT. He stated that the Council had learnt that each CAT was unique.

A member of the Committee referred to the approach taken by Carmarthenshire County Council which had seen 122 assets transferred, whereas only one CAT had taken place in Bridgend. A member of the Committee also commented that Bryncethin RFC had been offered a 35 year lease, whereas Brackla Community Council and Porthcawl Town Council had been offered 99 year leases. The Corporate Director Communities informed the Committee that Carmarthenshire County Council had taken a decision to make whole scale transfers of assets and enhance the process with financial incentives to ease transfers. He added that leases for a term of 35 years are based on advice from the Welsh Government and are ordinarily adequate to allow funding bids to external funders. He stated that it was difficult to compare local authorities on the approaches they take for CAT. He also stated that CATs were taking time to complete because of the due diligence process which had to be followed to protect the Council’s position. Additionally not all of the delays are attributable to the Council. In the case of Bryncethin RFC for example, there had been attempts to change the lease term from 35 years to 99 years after the initial heads of terms had been approved.

The Committee commented that the CAT process involved the Council removing the cost of liabilities and that some Town and Community Councils have the resources to

fund CAT whilst others do not have those means. The Committee commended Bryncethin RFC for having the tenacity to pursue a CAT. The Committee considered that the Council in some circumstances would ultimately have to take a decision on either to transfer an asset or to close the facility. The Committee also considered that the Council would need to ensure that the leases it enters into for CAT are of value and also safeguards the Council's position. The Committee considered that only certain types of organisations could take on the responsibility for CAT and there was a need for the Council to prioritise getting a certain number of CATs completed.

The Clerk to Pencoed Town Council was invited to address the Committee to contribute to the discussions on CAT. He informed the Committee that he endorsed the comments which had been made by Bryncethin RFC in the lack of progress made with CATs. He also endorsed the positive comments made by the rugby club in relation to the appointment of Guy Smith as CAT Officer.

The Clerk to Pencoed Town Council informed the Committee that three assets were being transferred to Pencoed Town Council on 35 year leases which have yet to be signed and consequently as with the experience of the rugby club funding could not be drawn down until the leases had been signed. He believed that the process for the completion of leases could be simplified especially where there is a proposed lease from one local authority to another. He stated that the transfer of facilities to Pencoed Town Council was one of the priorities in the Pencoed Regeneration Strategy and Action Plan and that the Town Council will shortly be holding a workshop to progress the Strategy and Action Plan. He informed the Committee of the inordinate amount of time it takes to deal with Bridgend County Borough Council (BCBC) and did not believe that the lack of progress in progressing CATs to their conclusion was a resourcing issue. The Clerk to Pencoed Town Council believed that the CAT Officer was open in his dealings with the Town Council but did not believe that this was the case with the other Departments within BCBC.

The Committee questioned the reason for delays in leases being completed. The Group Manager Property Services informed the Committee of the complexity of leases and that for a CAT there is a different type of lease to that of a commercial lease. She stated that a lease can be drafted quite swiftly based on agreed heads of terms but it can take time to complete if the parties can't agree the wording of specific clauses. She informed the Committee that the Council is the custodians for public assets and those assets have to be safeguarded.

A member of the Committee informed the Committee that the Caerau Development Trust proposed to transfer the lease of the BMX facility to the Noddfa Trust as that Trust run the facility. The CAT Officer informed the Committee that a large amount of funding had been procured for this facility and that the Property Services Department is checking whether the proposal to transfer the lease could be done and whether Welsh Government approval was also required. The Corporate Director Communities also informed the Committee that the Caerau Development Trust is a charitable organisation and there may be some delay due to that status.

The Committee considered that communication needed to be greatly improved between the Council and the organisations who had submitted expressions of interest in a CAT. The Committee considered that although there are resource implications facing the Council in progressing CATs, the Council does need to adhere to timescales and respond to questions raised by organisations in a timely manner. The Corporate Director Communities confirmed that there is always room for communication to improve and that often communication between sets of lawyers can be complicated and protracted due to the formality required. He stated that CATs are complex in their nature and that in the case of the Bryncethin RFC CAT the proposals for the redevelopment of

the facilities required a great deal of due diligence to be undertaken in order to scrutinise the rugby club's business plan. He stated that officers are in post to safeguard the interests of the authority.

Mr Phil Jones of Bryncethin RFC informed the Committee that he did not believe the project to be a complex one, but if funding was not received for the construction of the new building would not proceed. The Corporate Director Communities informed the Committee that the funding of £110k by the Council was dependent on the rugby club having an approved business plan for the project.

The Committee considered that the Council should invest in staff resources in order to facilitate CATs being completed or organisations will walk away from asset transfers. The Cabinet Member Communities informed the Committee that the latest batch of CATs received were not as complicated as the Bryncethin RFC transaction. He stated that the MTFs would have to be revisited if more resources were to be devoted to processing CATs. The Corporate Director Communities informed the Committee that it was not just about investing in staff but in some instances there might also be a need to have a fundamental policy change. For example, he stated that with regard to playing fields and pavilions the Council would need to determine whether to substantially increase charges or potentially some facilities would close, because the status quo position meant that facilities were deteriorating, there was no investment readily available and the number of CAT transfers of these facilities was so far limited. The Committee considered that a short term input of resources was required in order to get CATs over the line. The Committee considered that providing a deadline for the transfer of services or facilities might be helpful, explicitly pointing out that otherwise they would have to close. The Corporate Director Communities informed the Committee that cognisance would need to be taken of the Future Generations and Wellbeing Act in deciding whether or not to close facilities as it could lead to some areas in the County Borough having an inequitable provision of facilities if the take up of CAT was ' patchy' throughout the County Borough. The Committee also considered that some Community Councils are small and should consider working together in order to maintain facilities.

The Committee questioned why the Rest Bay facility was transferred by means of a management agreement and not a CAT. The Corporate Director Communities informed the Committee that the Council and Welsh Government has a long term ambition to host major events in Porthcawl including the Open Championship at Porthcawl and in the event of that happening; access would be required to the land around for a range of purposes including car parking, commercial activity and media requirements. It was important therefore that the Council protected its ability to be able to access the land in these circumstances. There were therefore circumstances where it would be more appropriate to enable some form of self-management of the facility by means of a management agreement rather than a full CAT.

The Committee questioned whether it would be possible to have a common lease for CAT transfers like other local authorities. The Group Manager Property Services informed the Committee that information is shared with other local authorities and a template could be developed for CATs but to date the CATs undertaken have needed bespoke leases.

The Committee questioned whether the relationship between the town and community councils and the Council is different than with the Council and sporting organisations and whether in the circumstances of transferring assets between democratically elected public bodies the process of CAT could potentially be streamlined. The Group Manager Property Services informed the Committee that the relationship between the Council and Town and Community Councils would be different to that with sporting organisations and therefore this potentially could be the case. The Committee considered whether there

was a role for Councillors to arbitrate between the Council and sporting organisations to speed up the CAT process. The CAT Officer informed the Committee that there is already a more streamlined process in place for CATs with Town and Community Councils as there was no requirement to produce a business plan to support their CAT application which was the case for sporting organisations.

Mr John Davies of Bryncethin RFC informed the Committee that representatives of sporting organisations are volunteers and do have frustrations at delays taken to process CATs.

The Committee thanked the invitees for their contribution.

A member of the Committee stated that there was a need to strike a balance between assets and liabilities and to also consider money being spent by the Council and a schedule of dilapidations prior to an asset being the subject of a CAT. The Committee considered that good lines of communication are vital with organisations wishing to take over an asset. The Committee also considered that the CAT process is lengthy and it should be borne in mind that the representatives of organisations are volunteers and to encourage CATs the Council may need to front load assets as a package of support to organisations in developing their business plans. The Head of Neighbourhood Services informed the Committee that the Community Asset Transfer Steering Group has been a step in the right direction and will assist in streamlining CAT processes and approval mechanisms.

The Committee questioned whether Town and Community Councils could access funds on behalf of third parties. The CAT Officer explained that this approach was unlikely to be successful due to double counting.

The Committee considered whether there were too many existing facilities and whether clubs could share facilities. The Corporate Director Communities confirmed that an option is to review the existing facilities and encourage sports hubs to be developed. He also informed the Committee that a report would be presented to a future meeting of Cabinet on a strategy for CATs particularly with regard to parks and playing fields.

A member of the Committee stated that the allotments association were actively looking at grant funding and asked why the leases proposed were to be of 25 years duration. The Group Manager Property Services stated that allotment sites had not been included within the CAT programme.

The Committee questioned whether there is scope to have Member representation on the CAT Steering Group. The Head of Neighbourhood Services stated that he would consider this request.

Conclusions

The Committee highlighted the need for Bridgend County Borough Council to communicate more efficiently with Town and Community Councils, Community Groups and Sports Clubs and recommended that, as previously carried out, a current and up to date list of CAT Priority 1 assets be sent to all, to invite expressions of interest in the transferring of Council assets, detailing what advice and financial support would be made available for any interested parties.

In relation to the current CAT process, Members emphasised the need for the method to be further developed and streamlined in order for the scheme to be successful. Therefore Members recommended that where applicable, indicative timescales be

provided to assist with expectations throughout the stages and to avoid any potential risks in relation to any funding applications made by groups.

Members acknowledged and understood the frustrations relayed by the Pencoed Town Clerk and representatives from Bryncethin RFC with reference to their analysis of the current CAT process being long and protracted and expressed particular concerns over the delay in the production of leases for assets. The Committee viewed this as a result of a lack of communication between the departments involved throughout the process and a shortage of resources within this area of the Authority. Therefore the Committee made the following recommendations:

- That a copy of the lease be provided at the expression of interest stage to enable much earlier discussions and deliberations.
- That when delays are encountered, that meetings are arranged with the relevant officers, along with an independent person to operate as an arbitrator to openly discuss any ongoing barriers. The Committee further suggest that the independent person could be an elected Member from another ward.

Following discussions regarding the CAT Priority 1 Asset list and the mentioned resource issues allocated to the process, Members noted that the asset list is very extensive and highlighted how onerous a task it would become if several groups put forward an expression of interest to each asset. Therefore Members recommended that the CAT Asset list be reviewed and Officers concentrate resources on the top 10 assets that are currently under discussion until transfer is completed.

The Committee noted that there is currently a Community Asset Transfer Steering Group that consists of Bridgend County Borough Council Officers only and Members recommended that the group include elected Members.

Members highlighted the need to encourage Town and Community Councils, Community Groups and Sports Clubs to work more collaboratively to enhance their viability to take over the Council's assets. Members therefore recommended that these comments be presented the TCC Forum.

In addition to the recommendations made above, the Committee provided the following resolution which takes into account most of the issues raised and discussed and also provides openness and transparency in the CAT process. Members recommended that a Community Asset Transfer pack be created to supply to potential applicants to ensure they fully understand the risk implications of taking on an asset. Members recommended that the pack include the following information:

- type and term of lease;
- estimated running costs of the asset;
- what services the Council would expect the applicant to undertake;
- who to contact for advice and support in completing the business case;
- Estimated timelines for each stage in the process.

The Committee requested the following Additional information

Members noted the inaccuracies within the CAT Priority 1 Asset list and ask that the document be reviewed and further requested that a copy of the up to date version is distributed to Members.

24. URGENT ITEMS

There were no urgent items.

The meeting closed at 12:55