

Minutes of **Overview and Scrutiny Committee**

Meeting date **Thursday, 28 January 2021**

Members present: Councillor John Walker (Chair), Councillor Roy Lees (Vice-Chair) and Councillors Peter Gabbott, Yvonne Hargreaves, Alex Hilton, Hasina Khan, Marion Lowe, Matthew Lynch, June Molyneaux, Debra Platt, Gillian Sharples, Paul Sloan and Kim Snape

Officers: Chris Sinnott (Deputy Chief Executive)), and Matthew Pawlyszyn (Democratic and Member Services Officer)

Apologies: Councillor Alex Hilton

Other: Councillor Peter Wilson (Executive Member (Resources)), Councillor Margaret France, Councillor Julia Berry, and Ray Bennett (Principal Officer, Highways and Transport at Lancashire County Council).

21.OS.1 Minutes of meeting Thursday, 1 October 2020 of Overview and Scrutiny Committee

Decision: That the minutes of the Overview and Scrutiny Committee held on 1 October be approved as a correct record for signature by the Chair.

21.OS.2 Declarations of Any Interests

There were no declarations.

21.OS.3 Public Questions

There were no public questions.

21.OS.4 Performance Panel Minutes

Decision: The minutes from the Overview and Scrutiny Performance Panel's held on 8 October and 19 November were noted.

21.OS.5 Executive Cabinet Minutes

Decision: The minutes from Executive Cabinet meetings held on 15 October, 12 November and 10 December were noted.

21.OS.6 Notice of Executive Decisions

Decision: The notice of Executive Decisions was noted.

21.OS.7 Adoption of Estates Update

The Overview and Scrutiny Committee welcomed Ray Bennett, Principal Officer, Highways and Transport at Lancashire County Council.

Ray Bennett defined 'Highway' as a road or street which may include a carriageway, a pedestrian or cycle route, or even a verge, in which the public had the right to pass without hinderance or obstruction.

'Adoption' was the process, procedure, or mechanism where the highway authority agreed to take on a street or streets and maintain them at public expense for perpetuity. This was managed and maintained by the County Council as the Highway Authority in Lancashire.

Ray Bennett briefly explained the history of the process of Adoption, recounting the legislation passed to create the current process, and explained that a street to be adopted had to serve at least six separate residential properties. Further information about how Lancashire County Council determined what could be adopted was in a County Council document entitled "Code of Practice on Highway Status and Adoption".

The Adoption Mechanism was highlighted in Section 38 of the Highways Act 1980. Section 38 was an agreement between the parties involved. The landowner had to agree to the adoption, and the highway Authority had to agree to take the highway and then maintain it.

The Highway Authority was unable to force a developer to enter into an agreement for streets on their private land to be adopted, and the developer cannot force the Highway Authority to adopt a road system through Section 38.

The process of the mechanism involved a developer to approach the County Council and declare that they wished for their roads, footways, and associated infrastructure to be adopted. This should occur before construction starts but is often not the case. For an agreement to take place, the Highway Authority required evidence including planning permission, full title to the land and streets which are to be built on, the highway layout and construction and highway drainage.

As part of the process, the Highway Authority would provide details of the information needed for adoption, such as technical requirements, documentation, and format required, legal advice and a draft Section 38 agreement and certification leading to final adoption.

The length of the process had no set time, but typically occurred 24 months from completion of the site work. Adoption was subject to a final inspection and placed on a 12-month maintenance period to highlight work to be completed by the developer prior to adoption. Large complex sites that have multiple phases took significantly longer to adopt.

There were several barriers that could prevent agreement and the process occurring in a timely manner, these could include:

- The design, layout or construction not complying with the County Council's design standards for adoption
- Full title cannot be demonstrated, some developers construct on land they do not have the title on
- Technical details required to enter into the Section 38 Agreement were not provided
- Confirmation not provided that linked agreements were established, e.g. with United Utilities to facilitate drainage of the site
- Inspection fee not being provided, and the site constructed without supervision, leading to uncertainty what had been laid down
- Legal documentation not returned
- Access obstructed or planted over
- Site failed to link to a highway maintainable at public expense

Section 37 of the Highways Act 1980 enabled owners of a road to serve notice on the Highway Authority to declare their intention to dedicate the street as a highway. All requirements for Section 37 mirrored Section 38. Though extremely rare, there have been attempts by developers to force inappropriate development onto the County Council through Section 37 in the past, and they were rejected through the Magistrate Court.

Section 228 of the Highways Act empowered the Highway Authority to adopt a private street after execution of street works. This is referred to as the Private Street Works Code. Section 228 is an aggressive form of adoption that removed land ownership rights and forced landowners to pay for streets to be at an adoptable standard.

For further insight into highway adoption, see "*Department for Transport (DfT) Advice Note on "Highway Adoption" April 2017.*"

Members asked if the online mapping system was kept up to date as there were examples where constituents had their estates adopted but were told by the contact centre that it was not the case. Ray advised they are updated as soon as the adoption passed.

The Chair enquired about the process if a development was finished and the developer ceased business operations. Ray explained that the process was to take the money from the developer before construction started but part of the highway's legislation was broken and building regulation was taken from the hands of the authority. There were plans for the legislation to be rectified but delayed due to Brexit and Covid-19.

Members queried what could be done about a large estate that was not adopted with several complaints. Ray explained residents would need to approach the developer and push for adoption, and it would be the developer's remit to approach the Council.

Members noted that there was not the communication in place for residents, District Council Members and departments. She asked if GDPR was a reason for difficulties in communication between residents and the Council after developers went into administration.

Ray believed that it was difficult as residents would be aware if the house they were purchasing was on an adopted street or not. It was up to the developer to seek

adoption, and he reiterated hopes that legislation would strengthen the position to seek payment prior to the start of construction. In terms of communication, he explained that there was a District Team in place to deal with enquiries from Parish Councils through to the parliamentary representative. Members highlighted issues with this and Ray undertook to raise it with the team.

A query was raised about the nature of adoption for properties that were leasehold. Ray felt that it was complicated but ultimately the developer had the title to the land they were built on and if they didn't own all of the land that was built upon, adoption could not occur. He noted that in Adlington, there was a small section of highway that was not owned and could not be adopted.

Decision: The report was noted

21.OS.8 Budget Scrutiny

The Overview and Scrutiny Committee welcomed Chris Sinnott, Deputy Chief Executive and Councillor Peter Wilson, Executive Member (Resources).

Councillor Wilson explained that the budget situation was challenging and reminded members that the Council's money came from Business Rates, Council Tax, New Homes Bonus, and grants, all of which was highlighted on page 86. The current challenge was not just to set the budget but to create a plan to balance the budget. There was outstanding uncertainty with business rates, as it was linked to the Fair Finding Review.

The report explained that there was a deficit of £908,000, increased from £302,000 due to the leisure centre service cost, in addition to the Covid-19 Pandemic. It was estimated that the deficit would increase to 3.2m next year and £4.3m the year after.

The report highlighted how the administration intended to balance the budget. First by explaining the saving made from the shared services arrangement, in addition to the income generated with Market Walk, Primrose Gardens, Strawberry Fields, and Logistic House. The deficit would reduce significantly to £107,000 going to 2m and then £2.9M, the year after.

It was proposed that council tax would be increased by 1.99%, with consideration given to increase parking charges without adversely impacting the high street.

The administration was considering investment sites and it was believed that future savings of £1m could be achieved by 2022-2023, with £1.3m the year after.

Councillor Wilson believed that it would be a considerable challenge to balance the books in light of the uncertainty with funding streams, but it was a testament to the hard work of Officers that allowed the administration to prioritise the Corporate Plan, and to ensure that money was correctly allocated.

In terms of reserves the general fund contained a committed £4M, and another £3.2m in reserves that covered Market Walk, and asset maintenance support for local businesses.

The Chair thanked Councillor Wilson, and to the officers that put the budget together. He enquired into the levels of money Chorley will receive from the Government

Finance Settlement. Chris Sinnott said that they received the one-year settlement as part of the Fair Funding Review, but there was only certainty for the coming financial year and it was around £500,000. The figure was slightly less than the previous year.

The Chair queried if the leisure centre was going to lose £600,000 and if that figure included funds made available by central government to cover the losses of leisure centres. It was confirmed that it included the funding, but there was optimism for a recovery in the next financial year.

The Chair asked about income generated and budget deficit of £170,000 caused by Strawberry Fields and if there was any indication that it would improve. It was hoped that it would perform better, but it was a long term investment for the Council to provide a source of revenue for 25-50 years. Although it was not producing revenue presently, interest and demand was growing despite the present situation, and the increase in working from home.

Members queried if there was a contingency for both Strawberry Fields and Digital House. Councillor Wilson confirmed that there were contingency plans, but they were focused on Plan A and believed that when things were up and running, interest would increase.

The Chair thanked both Councillor Wilson and Chris Sinnott for attending and presenting.

21.OS.9 Health Scrutiny

The Overview and Scrutiny Committee welcomed Councillor Margaret France to report on the Lancashire County Council's Health Scrutiny Meeting that took place in December 2020 and from the Lancashire Health and Wellbeing Report.

The situation had evolved from the middle of December to the end of January and she updated members of information covered which included test and trace, bed pressures on hospitals, and strategies employed to cope with winter bed pressures. The County was working with the military to deliver 6-week targeted surge programme of asymptomatic testing in the care, education, faith centres and large employers. A two-week extension was applied for. With Test and Trace in the region, due to the information passing hands, there was a period of 6 – 7 days before users were notified, but it was positive that the number of duplicated phone calls had decreased. It was stated that the test employed for Covid-19 carried a large number of false negatives, but there was no indication that there were false positives.

Transmission of Covid-19 in hospital was high, but the numbers slowly decreased when infection control measures were implemented, in addition to alterations in testing and ward distribution of patients waiting a result.

For the weekend of 20 January, Chorley had a figure of 373 infections per 100,000, which was below the national average and rate of infection was slowing down. The highest numbers were in the age groups 16-19 and 30-44 which 10% of tested, were positive.

Bed occupancy was currently 100% in critical care and growing, the peak was not expected until the period of 3 February to 17 February, and the peak of deaths was expected from the 24 February to the start of March.

It was expected that the vaccination programme would not yield benefits until the end of March and into April, but more than 80% of the over 80's were vaccinated. There were rumors circulating in the ethnic minority communities that pork products were used in the production of the vaccine, but this was false, and faith groups have been working hard to dispel the rumor.

167 enforcement notices had been issued the week ending 20 January, highest levels of enforcement notices were to barbers, gyms, shops and gatherings of young people.

Selective routine surgeries have been stepped down, but critical patients prioritised.

In response to a question by Members, it was noted Covid-19 patients were being treated at both Chorley and Preston, in addition to the Manchester Nightingale hospital.

21.OS.10 Reports from the Task and Finish Groups

Councillor Kim Snape updated the Overview and Scrutiny Committee relating to the progress of the Sustainable Transport Task Group. She highlighted the organisations and individuals that have attended and contributed, and those that are outstanding to the Task Group.

The process was described as insightful and there was optimism that conclusions and recommendations would be found. The report is due to go to Cabinet in March and could feature at the next Overview and Scrutiny Committee. She thanked Alison Marland (Principal Planning Officer) and Matthew Pawlyszyn (Democratic and Member Services Officer) for their work.

21.OS.11 Overview and Scrutiny Work Programme

Decision: The Overview and Scrutiny Work Programme was noted.

Chair

Date