



Date: Thursday, 17 December 2015
Time: 10.00 am
Venue: Council Chamber, Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND
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COUNCIL

TO FOLLOW REPORT (S)

7 PUBLIC QUESTIONS (Pages 1 - 10)

To receive any questions from the public, notice of which has been given in accordance with Procedure Rule 14.

Two petitions each bearing over 1,000 signatures have been received as follows, requesting a debate under the Council's Petition Scheme:

- Petition Against the Cuts in Arts Funding – Mike Layward, DASH
- Petition calling for Shropshire Council to work with Teme Leisure and Community Groups to develop a sustainable future for the Sparc Centre, Bishops Castle – Ms S J Walls

Each petitioner will be allowed 5 minutes to outline their case, after which there may be a debate of up to 15 minutes maximum.

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PUBLIC QUESTION TIME

AGENDA ITEM 7

QUESTION 1

MRS JOYCE BRAND, Ludlow resident, will ask the following question:

Will the Leader of the Council give details of action being taken to withhold work on behalf of Shropshire Council being allocated to ip&e until matters of maladministration have been investigated by the police and the outcome of that investigation has been made public?

Will the Council be undertaking a reconsideration of the usefulness of the company ip&e to the residents and council tax payers of Shropshire given the maladministration which has been identified.

Will the Council give assurance that full details of its own investigation will be made public.

MR S CHARMLEY, Portfolio Holder for Business Growth, ip&e Culture and Commissioning (North) has replied as follows:

I am not aware of any investigation by the police into the operations of ip&e Ltd or indeed any complaint to the Local Government Ombudsman about maladministration the body responsible for such matters. I can only repeat there have been no complaints about maladministration and there is no investigation by this Council. With regard to the operation of ip&e Ltd going forward this will be a matter for the new Leader and his Cabinet to consider in due course.

QUESTION 2

MR DAVID KILBY, resident and Secretary of the Shropshire Playing Fields Association, will ask the following question:

The front page of the Shropshire Star 22nd October 2015 reported that 'Safety measures demanded by a coroner after a man drowned in the River Severn in Shrewsbury are now in place'.

Coroner Mr Ellery had previously said in a case that occurred November 23rd 2014: "I shall write focusing on the river levels and gauges so the Environment Agency and Shropshire Council can work together so that when levels of the river reach a dangerous level then the plan to shut and lock the gate can be effectively implemented."

At the inquest, the coroner had heard 'it was likely Mr Hodgin had gone through a gate leading to a riverside path at Castlefields in Shrewsbury that should have been locked due to high water levels'.

In the Star report of the 22nd October 2015 it was reported that; Simon Jones, Shropshire Council's cabinet member for highways and transport, had said that the Environment Agency is now able to tell the council when the river level will be rising to a level which covers the towpath.

He went on to say; "Following the inquest, Shropshire Council wrote to the coroner outlining a number of actions that we were intending to take - and many of these have already been actioned.

"We undertook to work with the Environment Agency (EA) to get an automated method of reporting when river levels were expected to rise and engulf the towpath. The EA was unable to provide us with automated triggers, but they are able to model levels at a number of points up stream on the River Severn that will provide us enough time to be able to close existing access gates.

In **2012 I wrote** to Officers with regard to river safety measures along the stretch of tow path between the Greyfriars Bridge and the Weir in Sydney Avenue Shrewsbury.

The main thrust of my letter was the ineffectiveness of the gates along the towpath in times of flood.

Following the tragic death of Daniel Hodgin along this very stretch in 2014 I made my thoughts and knowledge of the river condition and state of gates known to the coroner, since then I have continued to investigate, lobby and campaign using a range of methods including responding to Councillor Simon Jones front page article on the 27th October 2015 by saying:

*'Put simply between the Weir and Greyfriars Bridge the footpath is frequently in flood – there are 10 entrances/exits to this stretch of the river – some have gates – **some do not***

My point – is that to be effective all need to be closed and locked in time of flooding – it is more dangerous to lock some and not others - my concern is that despite the measures you have taken – the main problem still remains

I felt it necessary to bring this to your attention so that we do not encounter another preventable death along this busy stretch of the river this winter.

I would be happy to meet to discuss further if you so wish'.

Mr Jones responded briefly saying:

'Thank you for your email with suggestions about additional gates to the towpath, I will discuss this issue with the relevant officers and respond to you with the outcome'.

Since this date I have heard nothing from Councillor Simon Jones.

Unfortunately since my e-mail my concerns were heightened when on the evening of Tuesday November 10th 2015 I walked the route of the towpath at 4.12pm noting the high and threatening water levels at the Weir, I also noted two town council employees were at this location at the same time as my-self. The water levels were high but not overflowing the towpath at this point – all 5 gates along this stretch were open.

During the evening I attended a Town Council meeting at Church Stretton, on my way home I decided to check the water levels and check to see if the River Severn had broken their banks on the towpath and see if the gates had been closed as recommended by the coroner.

I arrived at the Castle Walk Gates at approximately 9.25pm, walked through the open Castle Walk Gate towards the open gate next to the Weir in Sydney Avenue, the river had broken its bank, the river was in flood across the towpath, the gates were open.

At this point I was confronted by a policeman, standing in front of fire appliances, police vehicles and ambulances a full search was being implemented as it was suspected someone had accessed the towpath at the steps leading down from the Dana where there is no gate (but where since 2012 I have been asking for a gate to be put in place) and it was thought had entered the river.

At 9.35pm I telephoned the Shropshire Council emergency line to inform that the river was in flood and that the gates might be better closed rather than left open, at 10.05pm a man in a yellow jacket emerged from out of the darkness and closed the gates.

I informed Councillor Simon Jones of my experience, of my actions with photographs taken by myself to show the state of the river that evening.

No one has been in touch with me from Shropshire Council with relation to my concerns of the 27th October 2015 or my experiences reported on the 10th November 2015 hence why I am bringing this sensitive but critical issue to the attention of this full council today.

My question is; `could as a matter of great urgency 5 gates be installed at the five entrance/exits along this stretch of the towpath, so that a co-ordinated and consistent approach can be employed to the management of this stretch of the river when water levels are high or the river is in a treacherous condition.

Also could the 106 commuted sum agreement to provide a footpath from Castle Walk bridge to the new riverside development that was meant to be in place to provide safe passage for young children to access the castle walk play area from their new homes be implemented as a matter of great urgency – as at present the towpath on the opposite side of the river is their most obvious option to do this without the need to cross any busy roads.

MR S JONES, Portfolio Holder for Highways and Transport, has replied as follows:

Not all the access routes to the river towpath are in Shropshire Councils land ownership. Those that are Shropshire Councils are currently gated. At the top of the steps that run down from the Dana to the river we put a "Footpath Closed" sign. That has been removed or thrown down the steps on occasions, but is checked morning and evening whilst needed and replaced as necessary. We are trying to liaise with the land owner to reach agreement to gate this access also. The road which runs down to the river from Victoria/Severn/Dorset Street junctions is not gated and will not be as there is access to garages on the towpath.

When the gates are closed there are many instances of people climbing over them, some on bicycles or with children in buggies. The council will not open the gates until the flood waters have subsided, that the weather forecast indicates that they are unlikely to flood again within a few days, and we have cleaned off the silt, mud and debris.

There was a requirement to undertake a feasibility study and to provide a dry pedestrian access route, if possible, in the Section 106 agreement, signed at the time of the original Planning Permission. That was, however, removed by a Deed of Variation dated 30th November 2007. Mr David Kilby, who is asking this public question, was advised of this on 1st October 2013.

QUESTION 3

MR PETER PHILLIPS, South Shropshire resident, will ask the following question to the Leader:

The withdrawal of joint-use funding will place many small primary schools in great difficulty, in terms of their having to finance statutory swimming lessons. What steps does the Council intend to take to help them meet their obligations?

Narrative: Shropshire Council had been told by the Government to remove the top-sliced Joint-Use money from the leisure centre which it supports. These centres are typically based at schools in our market towns. The money is to be re-distributed via the general schools budget on a per-pupil basis. Thus small primaries will receive too little even to approach self-funding at Joint-Use levels. This is not a problem created by Shropshire Council; it is not the Council's 'fault'; but it is certainly the Council's responsibility.

MRS ANN HARTLEY, Portfolio Holder for Children's Services has replied as follows:

Primary schools have a specific requirement for pupils to complete a programme of study for swimming in Key Stage 2 unless they have done so in Key Stage 1. Up until the financial year 2010-11 this was a specific factor in the local authority's funding formula for schools. However, since 2011-12 this funding for admissions and transport to facilities has been delegated to schools as part of their overall budget share rather than via a specific formula factor. Therefore the funding for primary schools to meet their statutory obligations re swimming is already within their delegated budgets.

Up until the financial year 2014-15 just over £1 million was separately allocated to 15 secondary schools and 3 primary schools to support the existing provision of joint use leisure centres and swimming pools. This was distributed via Shropshire Council's school funding formula through what is termed an exceptional local premises formula factor, targeted to the 18 schools with joint use leisure and swimming facilities on site.

A major review of these arrangements was undertaken by Shropshire Schools Forum in the second half of 2013 and early 2014, which culminated in a detailed report going to Schools Forum in March 2014. The recommendation was to move over the next four years, starting in 2015-16, to the full delegation to all schools of the joint use leisure centres and swimming pools funding through the school funding formula.

This transitional arrangement was to allow time for the 18 specific sites to plan for and manage the removal of targeted funding. In a number of cases the funding is having to be removed more quickly due to Education Funding Agency guidelines, which do not allow for an exceptional local premises factor that is greater than 1% of an individual schools overall budget share.

It is important to note that the funding released in each of the four years is being redistributed to all schools via the Aged Weighted Pupil Unit (AWPU), which means that the significant majority of schools will receive additional funding.

The Council's priority remains to maintain current levels of leisure provision throughout the county wherever possible, in particular the joint use leisure centres and swimming pools, thus enabling the schools to continue to access local facilities. This will seek to ensure that the affected primary schools will not have to travel further than is currently the case. At present, elected members and Council officers are in discussions with a range of stakeholders across Shropshire to consider all options for securing the future of swimming facilities.

QUESTION 4

MR JOHN WAINE, of HOOOH, Hands Off Oswestry Hillfort, will ask the following question:

Today is a decisive day for SAMDev. It is also a decisive day for Old Oswestry Hillfort. How we would have wished for Councillor Pate's era of transparency, fairness, honesty and true localism to have started three years ago - then we wouldn't be in this mess. Today, the council have to make a clear choice. They can either provide a way for SAMDev's clear passage, or leave the entire plan in limbo awaiting the outcome of a Judicial Review. The case against - we have been legally informed - is very strong. We call on all reasonable council members to draw a line under recent revelations, and mark a new way forward for the council - one which places respect for all stakeholders, and respect for Shropshire's heritage, at its heart. Our question: Are the council content to leave SAMDev hanging, subject to Judicial Review on OSW004?

MR M PRICE, Portfolio Holder for Regulatory Services, Housing and Commissioning (Central) has replied as follows:

I would like to emphasise that SAMDev has at all times been conducted appropriately, with due regard to the regulatory framework and the spirit of localism, as confirmed by the Inspector's Report. By way of example during the preparation of the Plan members resolved to delete two other potential housing sites within the vicinity of the hill fort.

The Council does not accept that there are sustainable grounds for legal challenge, the SAMDev Plan has been found sound in its current form by an independent planning inspector who has had the opportunity to fully consider

issues and evidence relating to site OSW004, including a hearing at which HOOOH were able to present their case directly.

Were the Council not to adopt the Plan as proposed, this would be likely to generate significant uncertainty regarding the nature and extent of future development for local communities across the whole of Shropshire. Furthermore, should this site be deleted at this stage against the recommendations of the Inspector then the Council would face the prospect of legal challenge from the developers and owners of the site.

After considering a great deal of evidence from all parties and listening to the arguments at the SAMDev hearing the Inspector has decided that the site could stay in the Plan and help deliver much needed housing in Oswestry. She has decided that the development of the site for housing outweighs the 'less than substantial harm' to the hillfort and its setting.

The final policy before members today contains a number of criteria to ensure the appropriate integration of development within the sensitive historic landscape. Development should demonstrate appropriate regard to the significance and setting of the Old Oswestry Hill Fort and a master plan will be required for the development of the site which will apply a number of design principles.

QUESTION 5

DR RACHEL POPE BA, MA, PHD, FSA, FSA SCOT., will ask the following question:

NPPF states that LPAs should seek to sustain and enhance the significance of heritage assets, and consider that development within the setting of a heritage asset – certainly one as important as Old Oswestry Hillfort – may cause harm to that monument's significance. Rather than complying with NPPF and seeking to conserve the setting of Old Oswestry Hillfort, the LPA is instead seeking development in the hillfort's setting – contrary to NPPF. Is the Council comfortable with actively reducing the significance of one of the nation's greatest prehistoric monuments, by building less than 300 m from its ramparts?

In addition, why has the 'necessary expertise' (as required by NPPF P131) of twelve leading heritage experts (including Professor Sir Barry Cunliffe, Professor Lord Renfrew of Kaimsthorpe, and a further two fellows of the British Academy) been ignored regarding the degree of harm to the significance of Old Oswestry Hillfort by development within its setting at OSW004? Is it because NPPF P133 requires them to refuse consent if that advice were to be heard?

MR M PRICE, Portfolio Holder for Regulatory Services, Housing and Commissioning (Central) has replied as follows:

The Council, informed by the Planning Inspector's Report, does not accept that the allocation of OSW004 under the Plan would be contrary to NPPF, since the Framework does not seek to simply exclude development within the settings of heritage assets.

It requires instead an assessment of the impact of development on the significance of heritage assets, including any contribution made by their settings, and planning decisions taken by applying the relevant paragraphs in relation to the degree of any harm caused.

We understand that the requirement for the LPA to have regard to 'necessary expertise' is imposed by paragraph 129, rather than paragraph 131, of the Framework. Notwithstanding this, however, the representation made by the twelve leading heritage experts referred to was submitted to the Planning Inspector at the Examination and has therefore been duly considered by her when preparing her Report. Whilst therefore taking account of this representation, in paragraph 244 of her Report the Inspector attaches 'considerable weight' to the fact that Historic England, as the Government's statutory advisor on the historic environment, has not maintained an objection to OSW004.

In relation to the degree of harm that the development on this site would cause to the significance of hillfort as a result of development within its setting, it is both the Council's and the Planning Inspector's position that it would result in 'less than substantial harm', and thereby that paragraph 134 of NPPF, and not paragraph 133, applies. In this respect, Council is mindful of recent case law which establishes that 'substantial harm' is a very high test.

The Council and the Planning Inspector, at paragraph 234 of her report, fully acknowledge that paragraph 132 of the Framework requires that 'great weight' must be given to the conservation of the significance of designated heritage assets. However, when applying both paragraphs, the Inspector has found that less than substantial harm that the development of this site would cause would be clearly outweighed by the public benefits that would arise.

QUESTION 6

MR TIM MALIM, Heritage Advisor to HOOH, Hands Off Old Oswestry Hillfort, will ask the following question:

It is unclear how the Inspector was able to assess the lack of 'substantial harm' to the setting, and thus significance, of Old Oswestry Hillfort (a requirement of NPPF) when the LVIA actively avoids assessing the impact of views to the hillfort from OSW004 (see in particular View 12), a location which makes a major contribution to the heritage significance of Old Oswestry. Can the Council

comment on how the LVIA can be considered sufficiently valid when it contains such a glaring omission, and thus would a legal challenge against due process having been followed in this nationally important planning case be defensible?

MR M PRICE, Portfolio Holder for Regulatory Services, Housing and Commissioning (Central) has replied as follows:

The Landscape and Visual Impact assessment referred to was prepared on behalf of the site promoters to support their proposals for the site. It will, therefore, have been considered by the Planning Inspector, along with all the other representations and documents received during the formal consultation processes.

However, the Inspector does not seek to rely on the LVIA in her report when assessing the impacts on the setting of the monument that would arise from the development of this site. Instead, the Inspector stated in the examination that she would be conducting her own site visit and subsequently, at paragraphs 240 and 241 of her report, she forms her own independent assessment of the impacts on views to and from the hillfort.

QUESTION 7

DR GEORGE NASH, HOOH will ask the following question:

The area in and around OSW004 has now been recognised as a potentially intact World War One practice trench area, and therefore represents a significant historical and archaeological resource. Are members aware of this important WW1 landscape and, given the documented association between this site and the war poet Wilfred Owen, are they happy to build a housing estate on it?

MR M PRICE, Portfolio Holder for Regulatory Services, Housing and Commissioning (Central) has replied as follows:

The Council acknowledges that below ground remains of World War One practice trenches have been identified both on and beyond the boundaries of OSW004. It further understands that an application was recently made to Historic England to designate these remains as a Scheduled Monument but that this was rejected at the first stage of the process.

Whilst it understands that a request to review this decision has subsequently been made to the Department of Culture, Media and Sport, these remains must in the meantime be regarded as a non-designated heritage asset.

The Council further understands that the best preserved complex of WWI practice trenches are located within the interior of the hillfort and thereby subject

to the associated Scheduling. These remains would not be directly affected by the development of OSW004.

Through the Statement of Common ground agreed with Historic England it is agreed that further archaeological assessment of the remains of the trenches on OSW004 is necessary prior to submission of any planning application for the site. This is also in line with the requirements set out in paragraph 128 of the Framework and policy MD13 of SAMDev. Informed by the results this work, a balanced planning judgement would thereafter be made, in relation to paragraph 135 of the framework and standard archaeological practice, as to whether the remains should be preserved in situ, by adjusting the layout and design of the development, or archaeologically recorded prior to their loss.

QUESTION 8

MR DAVID COOPER, a Bridgnorth resident will ask the following question in respect of Agenda item 14, Community Governance Reviews:

- a) In respect of paragraph 5.4 of the report submitted, what did the officers and members of the Community Governance Working Party consider would be an achievable amount of elapsed time to reach a conclusion as to whether or not it would be appropriate for the parishes of Bridgnorth Town and Tasley to be merged?
- b) In respect of recommendation 2.1, if a review is commenced after the Local Government Elections currently scheduled for May 2017 have taken place, when would it be realistic to expect the results to be implemented if the review reaches a conclusion that it would be in the public interest for the parishes of Bridgnorth Town and Tasley to be merged?

MR M PATE, has replied as follows:

- a) The legislation requires that a community governance review is completed within 12 months of the publication of its terms of reference. It is likely that a review of this scale and contention will take the whole 12 months to complete properly and thoroughly.
- b) The findings of any review commenced after the Local Government Elections in May 2017 are likely to be implemented at the next Ordinary Local Government Elections scheduled to be held in May 2021 unless the working group is persuaded to recommend to the Council that they are implemented sooner with an earlier election.

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