

## **CHESHIRE EAST COUNCIL**

### **Minutes of a meeting of the Children and Families Overview and Scrutiny Committee**

held on Tuesday, 19th July, 2016 at The Ballroom, Sandbach Town Hall, High Street, Sandbach, CW11 1AX

#### **PRESENT**

Councillor Rhoda Bailey (Chairman)  
Councillor S Pochin (Vice-Chairman)

Councillors B Dooley, D Flude, G Merry, A Moran, J Saunders and  
S Corcoran(substitute)

#### **Apologies**

Councillor L Jeuda and Jill Kelly

#### **12 ALSO PRESENT**

##### Also Present

Councillor Liz Durham – Children and Families Portfolio Holder  
Councillor George Hayes – Deputy Cabinet Member  
Kath O'Dwyer - Executive Director of People & Deputy Chief Executive  
Jacky Forster - Director of Education and 14-19 Skills  
Bill Norman - Director of Legal Services and Monitoring Officer  
Janet Mills – Transport Policy Officer  
Sarah Tunstall - Business & Projects Manager

##### Visiting Members

Councillor Michael Jones  
Councillor Jon Weston  
Councillor Amanda Stott  
Councillor Mick Warren

#### **13 PUBLIC SPEAKING TIME**

Heidi Reed spoke about the Middlewood Way on route to the Tytherington High school. She had sought advice from the Suzy Lamplugh Trust on personal safety which suggested that people who felt isolated and unsafe should seek busy areas near to shops or garages etc. She contended that the Middlewood Way was poorly lit, isolated in many areas with no shops or garages nearby and was therefore unsafe. She raised concerns about how an alarm would be raised in the event of an incident. To highlight potential dangers, she referred to recent reports of a sexual assault against a teenage on a former railway line in Sandbach which was similar in nature to the Middlewood Way. The only alternative available for pupils who did not wish to use the Middlewood Way would be to cross a dual carriageway on the A523 Silk Road. She urged Cabinet to reverse its decision.

Dr Chris Murdoch referred to the personal circumstances of his son who had diabetes and was asthmatic. His concerns related to the difficulties that emergency services would encounter if they needed to gain access to Middlewood Way. He contended that the safety assessment carried out by the Council had ignored Department of Education guidance on safety.

Emanuel Botwe Head teacher at Tytherington High School informed the committee of his fundamental duty as head teacher to ensure the safety of children in his care. He had recently spoken to one 6<sup>th</sup> former from his school who had refused to use the Middlewood Way to travel to school, and had instead walked along the very busy Silk Road. He contended that the designation of Middlewood Way as an available walking route was not realistic. He stated that on 11 July, many parents had decided to take their children to school by car. This had illustrated potential future congestion difficulties on Badger Road which was adjacent to Tytherington High School, if the decision went ahead.

He questioned the practicality of parents accompanying a child on a daily walking journey covering six miles a day to ensure their safe arrival at school. In support of his assertion, he asked the Council to research a legal case: Regina V Devon County Council ex parte George (1989).

If Middlewood way was to be considered an available route, he asked 3 questions:

Will it make children safe?

Will it increase attendance?

Will it improve life chances of Children in Bollington?

Bollington Town Councillor Ken Edwards referred to a decision taken by Cabinet 3 years ago to reject the designation of Middlewood Way as an available walking route. He contended that the grounds upon which that decision had been taken had not changed in the three years since and should therefore be rejected again as an available walking route. He suggested that Bollington was an attractive place to live with four good primary schools and safe access to secondary schools. He commended the committee for having visited the walking routes but asked Members to imagine the Middlewood way in winter.

Dr Shelly Piasecka was a resident of Williston and referred to legislation relating to available walking routes to school and contended that if a route presented road safety hazards, the Council should declare it unavailable. She referred to the A51 which formed part of the Willaston walking route and informed the Committee that traffic flows were high and in respect of HGVs, 26% higher than the national average. She therefore wished to know how the road safety assessment had been carried out. The route also included a level crossing which had a history of accidents.

Janette Walker Head teacher at Malbank School in Nantwich stated that she aimed as Head teacher to treat every child as if it were her own. She would not allow her own child to walk on the available route to her school because she did not consider it to be safe. She added that many pupils would be carrying books, sports equipment and technology along a route which potentially could take an hour to travel, so they would arrive at school tired and in winter, wet and cold. She concluded that pupils would have to walk along a route with no street lights

in parts and have to negotiate a level crossing. She contended that this presented a safeguarding issue for all children at Malbank school and urged Cabinet to reverse its decision.

Isla Roberts spoke about her concerns regarding the speed at which emergency services would be able to access Middlewood Way in the case of an emergency. In addition, she also raised concerns about the fact that most teenagers carried mobile phones which may make them a target for theft.

Angela Miller, Business Manager at Mallbank School referred to an exercise she had undertaken with students three years ago to trial the available walking route to Mallbank School. She informed the committee that it took an adult fifty seven minutes to complete the full route. She expressed concern about children being distracted on the way which would add to their journey times. Additionally, there was no street lighting in stretches which meant that that it could also be very dark in winter.

Bollington Town Councillor Alan Williamson informed the committee of an incident involving an assault on his son on the Middlewood way some time ago. As a former firefighter he reiterated concerns expressed by other speakers that Middlewood Way provided poor access for emergency services.

Francesca Wharton informed the committee that her husband had recently been killed in a road traffic accident while cycling and had previously been involved in a collision with a vehicle at the roundabout on the Silk Road. She informed the Committee that it would be unthinkable to lose a child because of a road traffic accident at this location.

## 14 VISITING MEMBERS

Councillor Michael Jones suggested that the recent Cabinet decision was about saving money and suggested that savings could be made elsewhere within the Council's budget. He informed the Committee that he personally had walked one of the routes in January accompanied by parents. He concluded that the route was not safe at that time of year. He suggested that parents would drive to school instead of making use of the available walking route.

Councillor Jon Weston informed the Committee that he had received hundreds of emails about the available route from Bollington which was considered to be unsafe. He suggested that the Council had a moral responsibility to ensure the safety of children and a legal responsibility that could not be ignored. He questioned why a traffic assessment had been carried out at this location when most of the route consisted of a footpath separated from the nearby highway. He also contended that it was impossible to ignore personal safety in relation to availability and that if a route was not safe it should be deemed to be unavailable. Responsible adults considered the route to be unsafe and it had taken him over one hour to walk the route recently. He accepted that this would probably require a policy change.

Councillor Amanda Stott thanked members of the Committee for walking the routes yesterday. However, she felt that some relevant data had not been made available to the Committee, particularly paragraph 20 of the Department of

Education guidance from 2014. She also questioned the wisdom of ignoring guidance from the Suzi Lamplugh trust regarding personal safety.

Councillor Mick Warren, a former police officer in Macclesfield had researched the accessibility of Middlewood Way from the point of view of emergency services. He suggested that if an accident occurred it would be hard to pinpoint the location of the incident exactly because the path extended for about 1 ½ miles with very few features to aid identification. He had also researched crime statistics since 2012 and reported that there had been over 40 incidents. He speculated that if a major incident were to occur on the route, it would probably lead to the route having to be closed, which would force children to use the Silk Road.

## **15 DECLARATION OF PARTY WHIP**

There were no declarations of the existence of a party whip.

## **16 DECLARATIONS OF INTEREST**

Councillor Arthur Moran declared that he was a governor of Brine Leas school.

At this point in the proceedings, The Chairman adjourned the meeting. The meeting resumed at 11.05 am.

## **17 CALL - IN OF THE 14 JUNE 2016 CABINET DECISION RELATING TO A REVIEW OF AVAILABLE WALKING ROUTES TO SCHOOL**

The Chairman informed the committee that she had been handed a petition containing 412 signatures supporting the retention of the free bus service to Malbank and Brine Lees schools.

The Committee considered a report of the Director of Legal Services relating to the following Cabinet decision taken on 14 June 2016:

“That Cabinet

1. notes the reclassification of routes that have been re-assessed as available walking routes to school and agrees that free school transport for those routes be withdrawn from April 2017; and
2. authorises the Executive Director – People to spend £150,000 from the Local Transport Plan budget allocation for 2016/17 to improve further walking routes to school to bring them up to required standard so that free school transport for those improved routes may be subsequently withdrawn.’

In accordance with Scrutiny procedure rule 12, the decision had been called in.

Appended to the report were:

- A copy of the call in notice containing signatures of six members in accordance with scrutiny procedure rule 12.3 and setting out the grounds for call-in;

- A copy of the report of the Executive Director of People & Deputy Chief Executive considered by Cabinet on 14 June 2016;
- A report of the Executive Director of People and Deputy Chief Executive to the issues raised in the Call-in Notice;
- A copy of the Council's Policy on Walking Routes to school;
- A copy of the Route assessments for each of the five locations;
- Two documents containing frequently asked questions.

Councillor Liz Durham, the Children and Families Portfolio Holder outlined the background of the decision taken by Cabinet on 14 June 2016. She reported that the decision related to five routes at:

- Bollington to Tytherington High via Middlewood Way
- Middlewood, Higher Poynton to Poynton High School
- Elton Road Roundabout to Wheelock Primary School
- Willaston to Malbank High
- Willaston to Brine Leas School

She explained that the decision concerned the application of the Council's existing policy which had been approved in 2012, in an equitable and consistent manner across the borough.

Kath O'Dwyer Executive Director of People & Deputy Chief Executive explained that the Council's policy was in line with national policy and guidance. The safety assessments carried out in respect of each route, which were appended to the report, related to road safety only. Although other issues had been raised concerning, for instance, personal safety, the Council was required under the relevant legislation to take account of road safety issues only. However, she did acknowledge that safeguarding was taken seriously by the Council and that other actions that had been identified to improve general safety could also be taken on board by the Council.

Jacky Forster explained that as the decisions related to the application of an existing policy dating back to 2012, it had been decided not to undertake a formal consultation exercise in respect of the five routes. Instead, Cabinet had agreed to extend the minimum twelve weeks' statutory notice of the changes to pupil arrangements, to nine months in order to give parents significant advance notice. She acknowledged that there was scope for additional improvements to be made to the routes over and above that which existed at the moment. She also reiterated that parents would be informed of the appeal process in the event that they considered they had grounds of appeal.

The Council's policy was in line with Road Safety UK guidance on walking routes to school which was endorsed by the Department of Education. She also referred to case law which stated that local authorities should only be concerned with issues of road safety when carrying out safety assessments. Local Authorities were not required by law to take account of personal safety. Available routes could include anything from the highway to footpaths and bridleways etc. Guidance also indicated that a valid safety consideration included the possibility of pupils being accompanied by parents.

The committee then questioned the Portfolio Holder, Executive Director People and Deputy Chief Executive and supporting officers on the documents listed above and in relation to matters connected with the decision.

In response to a question about whether the Council had considered data relating to personal safety and security in the Council's own policy in accordance with the Department of Education document 'Home to School Travel and Transport statutory guidance 2014', Jacky Forster stated that the Department of Education guidance 2014 related to home to school transport in its widest sense and that this wider guidance was reflected in the Local Transport Plan.

In response to a question regarding the feasibility of secondary school pupils being accompanied to school by parents, Kath O'Dwyer stated that the Department of Education guidance was clear – it was the responsibility of parents to get their children to school regardless of age. She also stated that being accompanied could also include groups of pupils walking together. Whether or not children were accompanied was matter for parents to decide.

In response to a question as to whether the Council had in its possession data relating to criminal activity which had taken place on the Middlewood Way and had subsequently rejected, Kath O'Dwyer informed the Committee that there was no requirement for the Council to take account of such data in the assessment on walking routes to schools. And by way of example cited Regina V Essex County Council ex parte Rogers.

In clarification of whether an impact assessment which was referred to in the Cabinet report had been made available prior to the decision being made, the Committee was informed that as the decision related to the application of an existing policy, there had been no need to present an impact assessment to Cabinet.

In clarification of a point raised regarding Capital monies set aside to make improvements to routes Jacky Forster informed the Committee that the figure of £150,000 related to schemes identified in the Local Transport Plan to improve walking routes in phase 2 of the proposal, not to the five before the Committee today.

In connection with a further question about why there had not been any consultation undertaken by Cabinet prior to its decision, Councillor Liz Durham informed the committee the matter had not been referred to this Committee because the decision did not involve a change in policy.

Members of the Committee made the following general points about the manner in which the decision had been taken by Cabinet:

- That it was disappointing that Primary Schools had not been advised of these proposals, especially in light of the fact that many parents of current year 6 pupils would have already made a decision regarding the choice of secondary school, which may have been influenced by the availability of a free bus at the time that they had made their decision;
- The Committee remained to be convinced that all the available relevant Government Guidelines had been considered;
- The Committee felt that the Cabinet did not have enough relevant information to make the decision on 14 June 2016 and therefore the decision was taken prematurely;

- As Members of the Committee had benefitted greatly from undertaking a tour of the routes before the meeting, Members were disappointed to discover that neither the Portfolio Holder nor senior officers within the Children and Families Directorate had done likewise.

The Committee then looked at each route individually and made the following comments:

#### **Elton Road Roundabout to Wheelock Primary School**

The Committee raised concerns about a hedge and partly unlit section of highway on Hind Heath Road, which was considered not to be safe. Members questioned the fairness of withdrawing a free bus for pupils travelling from Ettiley Heath and suggested the Council should consider phasing the withdrawal of a free bus in line with paragraph 53 of the Department of Education guidance 2014, which was contended to be applicable to the June 14th Cabinet decision as the original policy approved in 2012 had not been applied across the borough in 2012.

At this point in the proceedings, the meeting adjourned and resumed at 1.24pm.

#### **Bollington to Tytherington High via Middlewood Way**

On behalf of Councillor Laura Jeuda, Councillor Sam Corcoran presented a written submission expressing her safety concerns about the Middlewood Way.

The Committee expressed the view that having walked the majority of this route, they considered it to be unsafe on the grounds that the route was isolated and hidden from view from the highway and residential areas for large parts. Anecdotal evidence presented to the committee on the number of police incidents that had been reported in the past 3 years reinforced this view. Although the Committee acknowledged the Council's policy had taken account of road safety matters, the committee contended that these were not relevant to the Middlewood Way on the grounds that it was not a highway. Members also contended that personal safety should be an integral part of the assessment process and that safeguarding of children should be of paramount importance to the Council. There were also specific concerns about lack of street lighting on Grimshaw Lane and that consideration had not been given at this stage to allocating a capital budget to address these necessary improvements at Middlewood Way and at other locations. The committee also wished to receive assurance that ANSA would be able to effectively manage the over grown bushes along various parts of the route.

In summary, the Committee concluded that Middlewood Way should be declared unavailable on the grounds of personal safety.

#### **Middlewood, Higher Poynton to Poynton High School**

Members concluded that many of the issues relating Tytherington were also relevant as far as Poynton was concerned. The surface of the stretch of Middlewood way near to Poynton School was poor and during the Committee's site visit which was conducted on a warm July day, there were several puddles and muddy areas.

**Willaston to Malbank High and Willaston to Brine Leas School (taken together)**

Members expressed serious concerns about the safety of children in the vicinity of the roundabout at the A500 onto the A51. Anecdotally, there had been reports of many collisions involving vehicles at this location but the Committee felt that they would like to see the official figures for this junction. To alleviate some of those concerns the Committee expressed a view that signs should be erected on the highway to warn motorists that there was a pedestrian crossing ahead.

It was also considered essential that any street lights that had been switched off should be turned back on, and the Council should seek assurances from ANSA regarding its hedge cutting programme.

In respect of the level crossing on Newcastle Road, this was considered to be hazardous by local people especially as it currently had single barriers and therefore that Network Rail should be requested to install double barriers at this location before April 2017.

**RESOLVED –**

- (a) That Cabinet be informed that this Committee recommends that the decision relating to available walking routes to schools taken on the 14 June 2016 should be reviewed along the following lines:
  - (1) That the walking route from Bollington to Tytherington High via Middlewood Way be declared unavailable on the grounds that there are serious concerns about the personal safety of pupils on considerable stretches of the Middlewood Way which is isolated and hidden from view of the nearby Silk Road. In addition, there are concerns about access to emergency services to the whole of the Middlewood Way and significant road safety concerns relating to the only alternative route in the vicinity, the Silk Road which would have to be used as an alternative walking route in the event that the Middlewood Way was closed for any reason. The committee therefore is of the opinion that it would not be possible to make the Middlewood Way safe, irrespective of any improvements that may be proposed;
  - (2) That in respect of the northern section of the Middlewood Way near to Poynton, improvements be made to the lighting and footpath surfacing which are currently uneven in places and prone to flooding thereby creating puddles and significant muddy patches;
  - (3) That in connection with the walking routes from Willaston to Malbank High and Willaston to Brine Leas School, the Committee believes that as they currently stand, these waking routes are not safe and would therefore ask the Executive Director Place to:



- Bring back to this Committee data regarding the collision rates at the roundabout on the A500/A51;
- Install signage on the A500/A51 to indicate to motorists that they are approaching a pedestrian crossing
- Request Network Rail to make improvements to the level crossing at Nantwich Road Willaston to install double barriers in the interests of pedestrian safety;
- Ensure that street lighting is switched back on those sections of London Road that have been part of the Council's experimental scheme;
- Review the speed limit on London Road with a view to it being reduced;
- Carry out repairs to the footpath on London Road which has collapsed in places and to create a footpath where currently none exists.

(4) That in respect of the Elton Road Roundabout to Wheelock Primary School, The Executive Director of Place be requested install street lighting to the footway/cycle path which is located behind the hedge on Hind Heath Road;

- (b) The Director of Education be requested to provide safety information on any future proposals relating to the availability of walking routes to school;
- (c) That whilst the Council's current policy on available walking routes to school complies with national guidance in respect of road safety, the Committee believes that its failure to address issues of personal safety indicates that the policy is detached from modern life and the Committee therefore requests Cabinet to review the policy with a view to including specific reference to the need to take account of personal safety;
- (d) That in respect of the five sites involved in this call-in and any future sites, decisions to withdraw free bus travel be undertaken on a phased basis in accordance with paragraph 53 of the Department of Education guidance 2014 so that no child currently in receipt of a bus pass will be disadvantaged by the decision;
- (e) That the Committee's disappointment be placed on record regarding the fact that this matter was not brought to it for consultation by Cabinet before a decision was taken.

The meeting commenced at 10.00 am and concluded at 2.50 pm

Councillor Rhoda Bailey (Chairman)