**CAERPHILLY CYNGOR**

**TOWN TREF**

**COUNCIL CAERFFILI**

**TOWN CLERK: TOWN MAYOR: CLERC Y DREF: MAIR Y DREF:**

**P. G. Davy Councillor Mike Prew**

 11th January 2021

An **Ordinary Meeting** of the **Caerphilly Town Council** will be held on **Monday 18th January** **2021** at **6.30 pm** by **Remote Access**

Any Member requiring further information on any item should contact me before the Meeting.

Phil Davy

Town Clerk

**A G E N D A**

1. To note Members’ attendance and to receive any apologies for absence.

2. Declarations of Interest in any item.

3. To receive and if thought fit to confirm the Minutes of the Ordinary Council Meeting

held on Monday 16th November 2020. .

4. Matters arising from the Minutes if not covered by the Agenda.

5. **COMMUNITY SAFETY MATTERS**

6. **TOWN MAYOR’S DIARY**

7. **ENVIRONMENTAL MATTERS**

8. **TOWN CLERK’S REPORTS**

 8.1 Section 137 Expenditure Limit 2021-22.

 8.2 Local Government and Elections (Wales) Bill.

 8.3 Risk Management.

 8.4 Q3 Budget Monitoring.

 8.5 Confirmation of Action – Christmas Selection Packs.

 8.6 Coronavirus Update.

9. **PLANNING MATTERS**

**10. PAYMENT AND FINANCIAL MATTERS**

 10.1 List of Payments.

 10.2 Bank Account Balances.

 10.3 Applications for Financial Assistance

 1. 3rd Caerphilly (St Martin’s) Guides and Rangers.

 2. Castle View Community Group.

10.4 External Audit Report 2019-20.

11. **CORRESPONDENCE**

12. **MEMBERS REQUESTS FOR FUTURE REPORTS**

 This Meeting will be held in accordance with the Local Authorities (Coronavirus)

(Meetings) (Wales) Regulations 2020. The Regulations make temporary provision in

relation to local authority meetings during the Covid 19 Pandemic. Statutory requirements placed on local authorities by existing legislation to admit the public and press in person to certain meetings and to provide facilities to inspect certain documents in person at offices of the authority are relaxed for the duration of the Regulations.

All documentation about and relating to this and any other Town Council Meeting undertaken by remote access will be made available on the Town Council Website.

[www.caerphillytowncouncil.co.uk](http://www.caerphillytowncouncil.co.uk)

**CAERPHILLY CYNGOR**

**TOWN TREF**

**COUNCIL CAERFFILI**

**TOWN CLERK: TOWN MAYOR: CLERC Y DREF: MAIR Y DREF:**

**P. G. Davy Councillor Mike Prew**

**MINUTES OF THE ORDINARY MEETING OF CAERPHILLY TOWN COUNCIL HELD BY REMOTE ACCESS ON MONDAY 16TH NOVEMBER 2020**

**Present:**

Councillors P J Bevan, C Elsbury, J Fussell, J Grenfell, J Hibbert, S Kent, S Morgan, M Prew, J Pritchard

**Apologies:**

Councillors R Bidgood, S Hodder, H Jackson

**In Attendance:**

P G Davy, Town Clerk

44 **MINUTES OF THE ORDINARY TOWN COUNCIL MEETING HELD ON 19TH OCTOBER 2020**

Minutes of the Ordinary Town Council Meeting held on 19th October 2020 were received and confirmed. Minutes to be signed by Town Mayor when practical.

**45 MATTERS ARISING**

Minute 35 – notification has been received that CCBC will be unable to offer a payroll service to Town and Community Councils. In accordance with Minute 31.4 arrangements will be made to bring the payroll back in house which will involve the purchase of a HMRC approved software package.

**46 COMMUNITY SAFETY MATTERS**

The following were raised:

* Boy racers in the Asda car park
* Traffic congestion on roundabout and estate roads due to customers queuing for MacDonalds and Costa Coffee
* Traffic regulations ignored by drivers at junction of Dol y Felin / Pontygwindy Road
* Highway and pedestrian safety issues due to Virgin Media engineering works on Bedwas Road

**47 TOWN MAYOR’S DIARY**

The Mayor had attended at the Caerphilly Cenotaph to lay a wreath on Remembrance Sunday 8th November, which had to be low key due to the coronavirus epidemic. Cllr Elsbury represented the Town Council on 11th November.

The Mayor had been requested to support the Christmas appeal by Vetro Recruitment in aid of providing presents for children.

**48 ENVIRONMENTAL MATTERS**

No new matters were raised.

**49 TOWN CLERK’S REPORTS**

1 Budget Estimates 2021/22

The Town Clerk outlined the assumptions on which the budget estimates were based and in particular the assumption it will be possible to resume normal activities from April 2021. A budget expenditure of £118,737 is proposed for 2021/22 which is £8,330 higher than the original projected expenditure for the current financial year. Income is projected at £111,165 resulting in an excess of £7572 of expenditure over income. A contribution from balances will be necessary to achieve a balanced budget.

It was resolved:

1 To approve the budget estimates for 2021/22 as set out in the tables attached to the report.

2 To set a precept of £15-50 for Band D properties for 2021/22.

3 To update the budget following completion of the year end accounts in April 2021 and in light of any ongoing coronavirus restrictions.

2 Town Council Social Media Account

Social media such as Facebook and Twitter are web based communication tools that enable people to interact with each other by sharing and consuming information. The report outlined common social media features and some of the downsides. A discussion took place on how content would be maintained and the staff time that would be involved. It was agreed to defer any decisions to allow time for investigation of other community and town councils social media accounts.

3 Future Audit Arrangements for Community and Town Councils in Wales

The requirement for community and town councils to prepare accounts and to have those accounts audited is set out in law. Over a number of years there have been common

governance failures across the sector. In light of this Audit Wales will introduce a new approach from the audit of the 2020/21 accounts based on a three year cycle of two limited procedure audits and a transaction based audit for each council. The introduction of the transaction based audits will be staggered across the first three years of the new arrangements. A transaction based approach will involve the auditors examining an individual council’s account and tracing transactions through to source records confirming the completeness and accuracy of the accounts.

The new arrangements were noted.

4 Independent Remuneration Panel for Wales – Draft Annual Report

For 2021/22 the Panel is not proposing any specific changes to payments in respect of community and town councils. The Panel continues to mandate a payment of £150 as a contribution to costs and expenses for members of all community and town councils, and is mandating contribution towards the cost of care and personal assistance needs.

The Panel’s final report will be published in February 2021 but it is not anticipated there will be any change to the mandatory payments.

The information was noted.

**50 PLANNING MATTERS**

The following planning applications were considered, and comments made as follows:

20/0845/FULL – no objections

Councillor C Elsbury declared an interest and took no part in the discussion or decision making on this application.

Councillor J Grenfell declared an interest and took no part in the discussion or decision making on this application.

20/0824/FULL – no objections

Councillor C Elsbury declared an interest and took no part in the discussion or decision making on this application.

Councillor S Kent declared an interest and took no part in the discussion or decision making on this application.

20/0867/COU – no objections

Councillor C Elsbury declared an interest and took no part in the discussion or decision making on this application.

20/0884/FULL – no objections

Councillor C Elsbury declared an interest and took no part in the discussion or decision making on this application.

20/0885/FULL – no objections

20/0890/COU – objections on the grounds of insufficient and unsatisfactory parking layout

20/0893/FULL – no objections

20/0854/TPO – no objections

20/0911/COU – no objections

Councillor C Elsbury declared an interest and took no part in the discussion or decision making on this application.

20/0912/FULL – no objections

20/0917/FULL – no objections

20/0918/FULL – no objections

Councillor J Fussell declared an interest and took no part in the discussion or decision making on any of the applications.

**51 PAYMENTS AND FINANCIAL MATTERS**

1 List of payments were noted and approved.

2 Bank account balances were noted

3 Application for Financial Assistance

Valley Daffodils – a grant of £250 was approved. Expenditure authorised under the Local Government Act 1972, section 137.

**52 CORRESPONDENCE**

There were no items of correspondence.

**53 MEMBER REQUESTS FOR FUTURE REPORTS**

There were no requests.

The meeting closed at 7.40pm

Note Councillor S Morgan had connection problems and was not present for all the meeting. Councillors J Pritchard and J Fussell left the meeting early.

**Agenda Item 8.1**

**Report to Town Council 18th January 2021**

**Section 137 Expenditure Limit for 2021-22**

Section 137(1) of the Local Government Act 1972 permits each Community and Town Council to spend on activities for which it has no other specific powers if the Council considers that the expenditure is in the interests of, and will bring direct benefit to, the area or any part of it, or all or some of its inhabitants, providing that the benefit is commensurate with the expenditure. Community and Town Councils are also permitted under section 137(3) to incur expenditure for certain charitable and other purposes. The maximum expenditure that can be incurred under both section 137(1) and (3) for the financial year 2021-22 will be £8.41 per elector (£8.32 in financial year 2020-21).

The report is for information.

Phil Davy

Town Clerk

**Agenda Item 8.2**

**Report to Town Council 18th January 2021**

**The Local Government and Elections (Wales) Bill – Update**

The Local Government and Elections (Wales) Bill has completed the committee stages and has been passed by the Senedd, and is expected to receive Royal Assent in January 2021.

The Bill provides increased opportunities for public participation and transparency in local government; reduces the voting age in local government elections to 16 and 17 year olds and extends the franchise to foreign citizens legally resident in Wales. This reflects the rights of 16 and 17 year olds and qualifying foreign citizens to register and vote in the Senedd elections in 2021.

There are a number of provisions that will impact on community and town councils including the general power of competence, promoting access to local government, and community council annual reports.

It is anticipated that Welsh Ministers will be issuing guidance and further advice will be presented in due course in respect of matters pertinent to the activities of the Town Council.

The report is for information.

Phil Davy

Town Clerk

**Agenda Item 8.3**

**Report to Town Council 18th January 2021**

**Risk Management**

Risk is the threat that an event or action will adversely affect an organisation’s ability to achieve its objectives and to successfully execute its strategies. Risk management is the process by which risks are identified, evaluated, and controlled.

The Town Council is under an obligation to identify and manage risks to public money arising from all activities. Risk management is an essential part of good governance and applies to all aspects of the Council’s work.

The risk assessment is undertaken on an annual basis and was last reviewed in January 2020. This predated the coronavirus epidemic which has had a major impact on the Town Council’s activities during 2020. Covid 19 is now an operational risk on the updated risk assessment. It is anticipated that the actions of both the UK and Welsh Governments to implement large scale community testing and mass vaccination will reduce the risk and minimise the spread of the virus. From the start of the new financial year in April 2021 it is planned to restore business as usual subject to specific risk assessments that may still be necessary in light of any continuing Welsh Government coronavirus regulations. During December 2020 the situation worsened with an increasing case rate, virus mutation, tier 4 lockdown, and curtailed Christmas arrangements. The timing of return to business as usual is therefore very uncertain and will make planning events for 2021 difficult. (Also see agenda item 8.6).

The risk assessment for 2021 is appended (included as a separate attachment). It is not possible to eliminate all risks but the control environment seeks to minimise the likelihood of the risk arising but also to mitigate the impact if the risk does materialise.

The Town Clerk, as the Proper Officer and Responsible Financial Officer, is responsible for the effective implementation of the control environment to manage risks on a daily basis. However, it is the Town Council’s responsibility to ensure there is a strategy for risk management, to monitor and review the risk assessment on an annual basis, and consider, and if appropriate endorse the Annual Governance Statement.

Recommendation

Members are invited to review the likelihood and impact of risks occurring and approve the annual review of the risk assessment.

Phil Davy

Town Clerk

**Agenda Item 8.4**

**Report to Town Council 18th January 2021**

**Q3 Budget Monitoring (2020/21 Financial Year)**

Comparison of actual expenditure to annual estimate for the period 1st April 2020 to

31st December 2020

|  |  |  |
| --- | --- | --- |
| **Main Budget Heads** | **Q3 Actual £** | **Annual Estimate £** |
| Mayor’s Allowance | 675.00 | 900.00 |
| Members Allowances | 450.00 | 1800.00 |
| Staff Costs | 15233.57 | 20221.00 |
| Travelling Expenses | 0 | 500.00 |
| Audit Fee | 200.00 | 400.00 |
| Insurance | 1684.55 | 1586.00 |
| Office Costs | 2116.41 | 8300.00 |
| Sponsored Events | 0 | 14550.00 |
| Concessionary Hires | 0 | 0 |
| Fireworks Display | 1750.00 | 15000.00 |
| Fireworks Charity Donation | 0 | 4000.00 |
| Floral Decorations | 11727.73 | 13500.00 |
| Christmas Lights | 8780.69 | 8500.00 |
| Lantern Parade | 0 | 8500.00 |
| Financial Assistance  | 2150.00 | 6000.00 |
| Summer Sports Scheme | 0 | 5000.00 |
| Newsletter | 687.50 | 600.00 |
| Elections | 0 | 0 |
| Miscellaneous | 0 | 1050.00 |
| VAT | 4706.49 |  |
| CIL Projects |  |  |
| TOTAL | 50161.94 | 110407.00 |

 £

Budget for 2020/21 110.407

Revised estimate of expenditure 85.159

(as reported to November Town

Council meeting)

Actual expenditure to 31.12.20

(45% original, 59% revised)

Members are invited to note the report

**Agenda Item 8.5**

**Report to Town Council 18 January 2021**

**Christmas Selection Packs – Confirmation of Action**

Following a difficult year and cancellation of Christmas events, in early December 2020 a proposal was made to provide a Christmas Selection Pack to every primary school pupil within the five primary schools within the Town Council area (Twyn, Plasyfelin, Ysgol y Castell, Cwrt Rawlin, Ysgol Gymraeg Caerffili), numbering approximately 2,200. Due to timing an urgent decision was required outside the Town Council’s normal cycle of meetings. The views of Members were sought via email and by the deadline given 10 Members had replied all supportive of the proposal. The Town Clerk agreed the expenditure under section 137 Local Government Act 1972. Sufficient funds were available due to savings within the Christmas Lights budget. The Selection Packs were sourced locally and the cost was £1701.32. The distribution to the primary schools was arranged by Members.

Members are requested to confirm the action.

**Agenda Item 8.6**

**Report to Town Council 18 January 2021**

**Coronavirus Update**

The Town Council last reviewed working arrangements due to the coronavirus pandemic in September 2020. At that time it was agreed that staff should continue to work from home for the remainder of 2020 and the position reviewed in December prior to the start of 2021. Similarly it was agreed that Town Council meetings for the remainder of 2020 should be held by remote access and the position reviewed in December prior to the January 2021 meeting of the Town Council.

The position with the transmission of the virus worsened in December resulting in a tier 4 lockdown for the whole of Wales from 20th December 2020. Household mixing over Christmas was considerably curtailed to no more than two households and on Christmas Day only. As January 2021 started with a lockdown it is clear that any return to normal working is some way off.

Members are reminded the Town Council has responsibilities as an employer under health and safety legislation and this includes taking reasonable steps to protect employees, councillors, and visitors from coronavirus. The Town Council must follow the requirements laid down by Welsh Government in the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020 which have been amended on several occasions to reflect the changing circumstances in Wales.

It is anticipated that as the vaccines are rolled out more widely and community transmission of the virus declines there will be a gradual return to normality but the timescale is far from certain. Staff home working and remote access meetings will need to continue for a further period and reviewed again in April 2021 at the start of the new financial year. The Local Authorities (Coronavirus)(Meetings)(Wales) Regulations 2020 make provision to enable meetings of local authorities held before 1st May 2021 to be by remote attendance.

While the Town Council has made a commitment to reinstate the events programme for 2021 the normal advance planning may be difficult due to uncertainty over the timing of the lifting of restrictions. Some flexibility will be necessary as the situation unfolds during the early part of 2021.

It is recommended:

1 Staff continue to work from home and the position is reviewed in April 2021

2 Town Council meetings continue to be held by remote access and the position reviewed in April 2021

Phil Davy

Town Clerk

**Agenda Item 10.1**

**Report to Town Council 18th January 2021**

**List of Payments**

|  |  |  |  |
| --- | --- | --- | --- |
| **Cheque No** | **Payee** | **In Respect of** | **Amount £** |
| Internet | Playworks | Salaries (admin only) | 21.00 |
| Internet | HMRC | Income tax & NI | 546.61 |
| Internet | Admin Assistant | Salary (November) | 381.30 |
| Internet | Town Clerk | Salary (November) | 720.19 |
| Direct Debit | Nest | Pension (November) | 27.96 |
| 304108 | Valley Daffodils | Grant | 250.00 |
| Debit Card | The Works | Stationery | 13.49 |
| Debit Card | B&M Retails Ltd | Selection packs | 970.81 |
| Debit Card (SK) | B&M Retails Ltd | Selection packs | 730.51 |
| Internet | LITE | Christmas Lights | 3805.44 |
| Internet | LITE | Christmas Lights | 3998.40 |
| Internet | C. Elsbury | Christmas Tree decorations | 39.72 |
| 304109 | J.S. Lee Ltd | Christmas Tree | 984.00 |
| Internet | Playworks | Salaries (admin only) | 21.00 |
| Internet | HMRC | Income Tax & NI | 546.61 |
| Internet | Admin Assistant | Salary (December) | 381.30 |
| Internet | Town Clerk | Salary (December) | 720.19 |
| Direct Debit | Nest | Pension (December) | 27.96 |
| Direct Debit | BT | Telephone A/C | 41.69 |
| 304110 | M. Prew | Mayor’s Allowance | 225.00 |

It is recommended that Members note and approve the payments

**Agenda Item 10.2**

**Report to Town Council 18th January 2021**

**Bank Account Balances**

Bank Account Balances as at 1st January 2021

 £

Community Direct Plus Account 83,513.45

Business Select Account 10,636.51

Business Select Account (Restricted Reserves) 22,335.10

Members to note the information

**Agenda Item 10.3**

**Report to Town Council 18 January 2021**

**Applications for Financial Assistance**

 **£**

Budget 2020/21 6000

Commitment 2150

Available 3850

1 3rd Caerphilly (St Martins) Guides and Rangers

The Guide and Ranger Unit provides activities for girls aged 10-18. The Group is self financing but fundraising events have not been possible during the coronavirus epidemic. The Group has 13 members resident within the Town Council area. In accordance with the policy a grant of £150 could be awarded. The financial assistance expenditure would be authorised under the Local Government Act 1972, section 137. The Group previously received a grant of £150 in July 2019.

2 Castle View Community Group

The aims of the Group are to promote the interests of people living on the Castle View Housing Estate and undertake local environmental projects. The beneficiaries are seen as all the residents on the estate. The Group has advised there are 4 committee members and 4 to 6 other members who attend meetings. Funding is sought towards insurance and the refurbishment of the wildflower beds and maintenance of the pond area. In accordance with the policy and based on the active members a grant of up to £150 could be awarded. However given that the group is open to all residents of Castle View and the Group engage with the local community via Facebook, Members may wish to consider a higher grant. The financial assistance expenditure would be authorised under the Local Government Act 1972, section 137. The Group previously received a grant of £250 in January 2018.

**Financial Assistance – Application Form**

**Name of Organisation**

3rd Caerphilly (St Martins) Guides and Rangers

**Purpose or Activities of Organisation**

Guide and Ranger Unit (part of Girlguiding Cymru). Provides activities for girls aged 10 to 18.

**Membership of Organisation / or Beneficiaries of Activities**

Number of members who are resident in the Town Council area 13

**Membership Fees**

£30 per term

**Present Financial Position**

We currently have £1066.01 of which £360 will be refunded to parents following the cancellation of our outdoor activity weekend due to Covid leaving £706.01. We have to raise all are own funds and are self financing.

**Purpose for which assistance is required and estimates of costs**

We would appreciate some help with the ongoing costs of our meeting place, craft materials etc as we cannot fund raise at the moment due to Covid. We estimate our costs as £220 for the next 6 months

**Financial Assistance - Application Form**

**Name of Organisation**

Castle View Community Group, Caerphilly

**Purpose of Activities of Organisation**

The Group is constituted to promote the interests of the community and represent matters of concern. We organise events and activities that promote well being of people and environment. Further information on activities can be found on our Facebook page.

**Membership of Organisation / or Beneficiaries of Activities**

Number of members / beneficiaries who are resident in the Town Council area approx. 3000.

**Membership Fees**

N/A

**Present Financial Position**

Bank statement shows funds of £961 at October 2020

**Purpose for which assistance is required and estimates of costs**

£100 to cover cost of Group Insurance with Keep Wales Tidy

£200 towards refurbishment of wildflower beds and general maintenance of the pond area including purchase of tools, equipment and seeds

**Agenda Item 10.4**

**Report to Town Council – 18 January 2021**

**External Audit Report 2019-20**

Annual return

The external audit for the year ending 31st March 2020 was completed on 15th December 2020 by BDO LLP acting on behalf of the Auditor General for Wales. The Annual Return and audit opinion are included with the agenda papers. The auditor has concluded:

“On the basis of our review, in our opinion, the information contained in the Annual Return is in accordance with proper practices and no matters have come to our attention giving cause for concern that relevant legislation and regulatory requirements have not been met.”

The auditor has drawn the Council’s attention to specific matters in the accompanying Issues Arising Report (see below) which should be addressed but they do not affect the audit opinion.

Recommendation

The Town Council approves and accepts the Annual Return.

Issues Arising Report

A copy of the report is included with the agenda papers

The auditor has raised the following matters:

1 Accounting Statements – Trust Funds Disclosure Note

The issue raised is that the Council has not answered box 14 for 2019 in the Accounting Statements of the Annual Return. Based on the prior year’s information the Council should have answered “N/A”.

Essentially a “dot” was missed off the form. This year’s Annual Return was completed electronically and a series of questions on the form required yes, no, n/a, answers by typing a dot in respective boxes. This was therefore a simple typing oversight. The omission could easily have been rectified had this been drawn to the attention of the Town Clerk by the auditor. It should be noted that the error related to the previous financial year and not the year the subject of the audit.

The auditor has recommended the Council should ensure that it answers all questions on the Annual Return. Clearly it is the Council’s intention to address all questions but unfortunately errors will arise from time to time when compiling the information.

2 Expenditure powers – S137

The auditor is of the opinion that the Council has incorrectly recorded items as Section 137 payments when other statutory powers exist. A payment cannot be recorded under Section 137 if another statutory power exists.

Members are reminded that Section 137 Local Government Act 1972 enables councils in incur expenditure for certain purposes, not otherwise authorised under other legal powers, which in their opinion is in the interest of, and will bring direct benefit to, their area or any

part of it or all or some of its inhabitants. The benefit obtained must be commensurate with the expenditure incurred and is subject to an annual statutory limit.

*Caerphilly and District Twinning Association*

Minute 32.3.3 (June 2019) A grant of £250 was approved and the expenditure authorised under Section 137 Local Government Act 1972.

The auditor states the expenditure could have been authorised under Section 144(2) Local Government Act 1972 power to provide and encourage visitors to the UK.

*Section 144 Power to encourage visitors and provide conference and other facilities*

*Section 144(2) states “---a local authority may contribute to any organisation approved by the SoS for the purposes of this sub section and established for the purpose of encouraging persons to visit the UK or any part thereof “*

Principally this is interpreted as the power to contribute to the encouragement of tourism. It is open to argument as to the primary purpose of the Twinning Association. The Twinning Association promotes cultural links and exchanges and there are overseas visits as well as visits to the UK. As Section 144 is narrowly drawn in respect of visits to the UK it does not cover the full scope of activities of the Twinning Association. Furthermore, there are no conditions on the grant which restrict its use to the Section 144 power. Therefore, it is concluded that Section 144(2) is not the most appropriate legal power and that Section 137 has the broader scope for the purpose of the grant to the Twinning Association.

*Caerffili in Bloom Group*

Minute 12.3 (April 2019) A grant of £1000 was approved and the expenditure authorised under Section 137 Local Government Act 1972. The grant was towards the cost of plant materials, planters and their maintenance.

The auditor states the expenditure could have been authorised under Section 10 of the Open Spaces Act 1906, power to maintain open space.

*Section 10 Open Spaces Act 1906 Maintenance of open spaces and burial grounds by local authority.*

Section 10 provides that a local authority that has acquired control over any open space to which the 1906 Act applies shall, subject to certain conditions, hold and administer the open space in trust to allow the enjoyment of it by the public as an open space and for no other purpose, maintain and keep the open space in good and decent state.

It is difficult to see how the grant to the Caerffili in Bloom Group would be covered by Section 10 Open Spaces Act 1906. Members are aware that the Town Council does not have any control over any open space. It is concluded that the auditor has misinterpreted the situation and that Section 137 is the most appropriate legal power to authorise the grant to the Caerffili in Bloom Group.

The auditor has recommended the Council must ensure in future years that it reviews the list of statutory powers available to town and community councils to establish if a power exists before relying on S137 to authorise a payment. The statutory power being used to authorise expenditure should be recorded alongside the item to demonstrate the Council has properly followed its standing orders and financial regulations.

The Council already follows the procedures recommended by the auditor and no further action is required. The Council endeavours to act at all times within the statutory and regulatory framework that applies to town and community councils within Wales.

As can be seen from the commentary above the legislation is open to interpretation and while the auditor may express an opinion whether the correct legal power has been used to authorise expenditure it is for the Council to decide on the most appropriate power, and ultimately whether this interpretation is correct or not can only be determined by the courts. It is interesting that the auditor uses terminology “could have been authorised” and not “should have been authorised” which suggests some element of doubt. Importantly the Council has to show that it is placing reliance on a specific legal power when incurring expenditure, otherwise the expenditure would be unlawful.

Recommendation

The issues raised by the auditor are noted, and no further action is required in view of existing established procedures and that the opinions of the auditor as to the appropriate legal power are arguable.

Note this is the last year BDO LLP will be undertaking the external audit. Audit Wales will be taking over the external audits for 2020-21 financial year and beyond (see report to Town Council November 2020).

Phil Davy

Town Clerk