

## **Motion to Council 1/20**

### **Motion submitted by Councillor de Whalley (1/20)**

“This council recognises that it is the body vested with the authority within its jurisdiction (The Borough of King’s Lynn and West Norfolk) to take such timely actions necessary to prevent dangerous climate change, as our fair share of the UK’s efforts to limit global temperature increase to 1.5°C (as per our commitments to the Paris Agreement), which is not only morally and politically the right thing to do but that it is also an inescapable legal obligation following the Dutch Supreme Court Judgement (Urgenda v The State of the Netherlands) on December 20th, 2019.”

“Environmental plans at all levels of government have the capacity to affect human rights, and the right to family life and the right to life. The Dutch Supreme Court’s ruling reflects this in stating that governments have a legal responsibility to reduce emissions, to mitigate climate change for the protection of their citizens under Articles 2 and 8 of the European Convention on Human Rights (ECHR, 1953). All governments bound by the ECHR are subject to the same obligations. The UK is a signatory to the ECHR, and the same obligations are on UK Statute as the Human Rights Act 1998. The scope of this Act within the UK is unaffected by the withdrawal agreement and can only be rescinded by an act of parliament.”

## **Response to Motion 1/20**

### **Part 1:**

***“This council recognises that it is the body vested with the authority within its jurisdiction (The Borough of King’s Lynn and West Norfolk) to take such timely actions necessary to prevent dangerous climate change, as our fair share of the UK’s efforts to limit global temperature increase to 1.5°C (as per our commitments to the Paris Agreement), which is not only morally and politically the right thing to do but that it is also an inescapable legal obligation following the Dutch Supreme Court Judgement (Urgenda v The State of the Netherlands) on December 20th, 2019.”***

The Borough Council of King's Lynn and West Norfolk (BCKLWN) recognises its role as a community leader to influence emissions on a district level and from within our own organisation. Climate change will feature prominently in future strategies and policies throughout the BCKLWN with regards to the way in which it operates. In addition, climate change features as one of the key priorities in the Corporate Business Plan: “Protecting and enhancing the environment including tackling climate change”. The BCKLWN will be engaging with the public and using its community leader status to educate and influence the public.

However, the BCKLWN is not the only body vested with the authority within its jurisdiction (the Borough Council of King's Lynn and West Norfolk) to tackle the Borough's emissions. Therefore, it cannot take or accept sole responsibility for the taking of such timely actions as may be necessary to prevent "dangerous climate change". The BCKLWN can directly influence its own actions and take "timely" actions to get its own 'house in order'. However, the BCKLWN does not have a large scope of influence over major emitting processes from within the Borough's different sectors.

Motion 1/20 suggests that it is an 'inescapable' legal requirement for the BCKLWN to take "timely actions necessary to prevent dangerous climate change, as our fair share of the UK's efforts to limit global temperature increase to 1.5°C". However, it is the responsibility of Central Government to grant powers to local authorities in order to act on national commitments arising from the Climate Change Act 2008 and the Paris Agreement. As previously stated, the powers to enforce against and influence the largest emitting processes in the Borough have not been granted to this local authority.

The term "timely" is also ambiguous. Does it mean monthly, annually or biannually? How quickly does the motion want actions to be made? It could be argued that we are already taking "timely" but methodical actions on climate change such as:

1. Developing an annual BCKLWN carbon audit.
2. Conducting a council estate Re: Fit.
3. Looking into the Borough emissions and where we can influence them.
4. Setting up an officer working group.
5. Advising on climate emergency motions.
6. Engaging on a Borough level through the Norfolk Climate Change Partnership.
7. Developing and looking at policies and strategies to reduce the BCKLWN's emissions.
8. Employing a graduate through an internship to aid with climate change work and subsequently offering a two-year fixed term post.
9. Developing a climate change policy and a climate change strategy with action plan.

It is understood that large projects and actions are required to significantly reduce Borough and BCKLWN emissions, however, these will take time. Strategies and policies need to be drawn up in the right way to provide the best cumulative response to climate change and decreasing emissions. Without the right approach, the targets and expectations may not be met. There needs to be a careful, methodical approach to this issue, to make sure that projects, strategies and policies are met and do not need to be rectified in the future. This is a long-term issue that needs to be tackled with long term goals in mind. Unduly 'timely' actions may lead to poor, inappropriate or wasted work and ultimately results that don't hit the mark. Therefore, work on climate change needs to follow a proper and careful process to allow for the positive result we want (such as the phased approach, outlined in previous panel reports). We

are working with the 2050 target; therefore, “timely” actions will occur in relation to this legislated timeframe.

Issue of moral and politics are not matters for Officer advice. However, legal advice is that the Dutch Supreme Court judgement in Urgenda v The State of the Netherlands is not binding on UK courts or government. While it is a case that considers laws that do not apply in the UK, and so may be of persuasive influence should similar matters come before the UK courts, it is over-stating the position to suggest that the Urgenda case imposes and “inescapable legal obligation” on local authorities such as BCKLWN.

## **Part 2:**

***“Environmental plans at all levels of government have the capacity to affect human rights, and the right to family life and the right to life. The Dutch Supreme Court’s ruling reflects this in stating that governments have a legal responsibility to reduce emissions, to mitigate climate change for the protection of their citizens under Articles 2 and 8 of the European Convention on Human Rights (ECHR, 1953). All governments bound by the ECHR are subject to the same obligations. The UK is a signatory to the ECHR, and the same obligations are on UK Statute as the Human Rights Act 1998. The scope of this Act within the UK is unaffected by the withdrawal agreement and can only be rescinded by an act of parliament.”***

The BCKLWN is already showing how it is taking climate change seriously, in order to limit global temperature, increase to 1.5°C. The BCKLWN agreed to a phased approach to the work on climate change which covers the 2019/2020 financial year. The aim of this phased approach is to:

1. Complete an audit of the 2018/2019 BCKLWN carbon emissions (*completed Jan 2020*).
2. Start reviewing the whole Borough emissions bubble (*completed and expected mid-late 2020*).
3. Set up a Climate Change Officer Working Group (*three meetings so far*).
4. Consider best practice and work towards being a climate change exemplar authority (*addressed in the 2020 policy and 2021 strategy with action plan*).
5. Help develop the climate change policy and strategy framework (including targets and action plans) (*policy in 2020 and strategy with action plan in 2021*).
6. Engage with local stakeholders and interested parties (*ongoing*).
7. Provide updates to Management Team, Cabinet and E&C Panel as required (*ongoing*).

Work is already being done by the BCKLWN to reduce its carbon emissions, namely a Re: fit of our council estate, which will reduce emissions by approximately 450 tonnes

CO<sub>2</sub> per year. In addition, a first tree planting programme was carried out in King's Reach, where 500 trees were planted. A new work plan has been drawn up for the 2020/2021 financial year which details key climate change areas of work. The newly established Norfolk Climate Change Partnership will be investigating ways of tackling climate change and reducing emissions on a County wide level. With this partnership working on a County wide scale, it highlights that climate change is a priority across all local authorities in Norfolk. Therefore, there is scope for large scale projects which will benefit Norfolk and in turn its individual districts and boroughs, the Borough of King's Lynn and West Norfolk included.

The current work being done shows that the BCKLWN is currently tackling climate change, in trying to mitigate for it, reducing the impacts and seeking to continue to reduce the BCKLWN's and Boroughs annual carbon emissions. Emissions from the BCKLWN have already reduced by 25% since 2014/2015. Despite a large proportion of this being driven by the greening of the UK national grid, we can expect larger reductions over the next few years, when considering current strategies that are ongoing or that have taken place.

Over the next financial year (2020/2021) our work plan will focus on providing 4 key pieces of work (the 2020/2021 work plan is attached as a background paper):

- A climate change policy.
- A climate change strategy with action plan.
- A 'Borough CO<sub>2</sub> bubble' review and comparison report (2005-2017).
- A BCKLWN 2019/2020 carbon audit.

Further work will include engaging in the Norfolk Climate Change Partnership and several task and finish groups where possible. Due to the recent COVID-19 pandemic, we will work with flexible deadlines to deliver the above pieces of work. Positive lessons learnt from the pandemic will also influence the climate change strategy and action plan.

As referred to in the response to Part 1, the Dutch Supreme Court judgement I Urgenda v The State of the Netherlands, which addresses central government obligations, is not binding on UK courts of government. It does consider laws that apply in the UK, and so may be of persuasive influence should similar matters come before UK courts.