

Time began 6.00pm  
Time ended 7.20pm

**COUNCIL CABINET  
18 MARCH 2008**

Present: Councillor Williamson (Chair)  
Councillors Banwait, Bolton, Hussain, Nath,  
Roberts, Smalley and Williams

In attendance: Councillors Jones and Carr

This record of decisions was published on 20 March 2008. The key decisions set out in this record will come into force and may be implemented on the expiry of five clear days unless a key decision is called in.

**199/07 Apologies for Absence**

Apologies for absence were received from Councillors Graves and Hickson and also from Steve Valentine, PricewaterhouseCoopers.

**200/07 Late Items Introduced by the Chair**

There were no items.

**201/07 Identification of Urgent Items to which Call-In  
will not apply**

There were no items.

**202/07 Declarations of Interest**

Councillor Williams declared a personal and prejudicial interest in item 214/07 Contract and Financial Procedure Matters 'Revised childcare charging policy'.

**203/07 Minutes of the previous meeting held on  
19 February 2008**

The minutes of the meeting held on 19 February 2008 were confirmed as a correct record and signed by the Chair.

**Performance Management**

**204/07 Annual Audit and Inspection Letter**

The Council Cabinet received a presentation from Steve Barnet, Audit Commission setting out the Annual Audit and Inspection letter. Cabinet also considered a report summarising the inspection work undertaken by the Council's external auditors, PricewaterhouseCoopers. The report outlined the annual Direction of Travel statement on progress made in addressing priorities and the auditor's work on the Council's accounts, governance and performance arrangements.

The report indicated that the Annual Audit and Inspection Letter provided a positive update on the Council's progress in 2006/07 and its continuing good governance and financial management. The key messages identified in the Letter were as follows...

- The Council had achieved the highest '4 star' rating Comprehensive Performance Assessment - CPA - category and was assessed as 'improving well'.
- The recent Corporate Assessment confirmed the Council as 'performing well', with a better score in this assessment than last time in the 'ambition' theme from 3 to 4. Key services for children and adults were assessed as 'good', with housing services receiving the top rating of 'excellent'.
- The Council provided good value for money and had effective management and robust plans for further improving services, including through the Local Area Agreement.

The Letter also highlighted actions to be undertaken by the Council as follows...

- The need to review and strengthen our neighbourhood level communication around priorities, progress and achievements.
- To capture, report and use all customer contact data to ensure services meet best need.
- To refocus the Council's consultation and engagement procedures to ensure older people's wider needs are understood and fully integrated into priorities.

## **Decision**

1. To receive the Annual Audit and Inspection Letter 2006/07.
2. To refer the Letter to Council on 21 May 2008.
3. To note that the Audit and Accounts Committee will consider the report at its meeting on 3 April 2008.

## **Matters Referred**

### **205/07 Children's Centres Report**

The Council Cabinet considered a report from the Children and Young People Commission on the development of Children's Centres in Derby.

#### **Decision**

1. To note:
  - a) the Commissions report and the findings and recommendations and;
  - b) that the Children and Young People's Department had a development plan in place which will ensure the recommendations are being considered.

### **206/07 Scrutiny Management Commission – Response to Petitions**

The Council Cabinet considered a report on Scrutiny Management Commission – Response to Petitions.

#### **Decision**

1. To note the report of the Scrutiny Management Commission and the Commission's decision to establish a Sub-Commission to consider petitions.
2. Council Cabinet members will, when possible, attend the Sub-Commission meetings where petitions about matters that fall within their portfolios are considered.

### **207/07 Analysis of Council Cabinet Forward Plan Items for 2007**

The Council Cabinet considered a report of the Scrutiny Management Commission outlining analysis of Council Cabinet Forward Plan Items for 2007.

#### **Decision**

1. To accept the following recommendation of the Commission:  
  
‘That the Forward Plan reference number and the date that the item was placed on the Forward Plan be included on all reports to Council Cabinet and also in the minutes of any subsequent decisions relating to the items’.
2. To undertake a review of the existing Forward Plan arrangements in the new municipal year taking into account the Commission’s analysis and findings.

## **208/07      Planning and Transportation Commission Topic Review on Backland Development – Cabinet Response**

The Council Cabinet considered a report outlining the Cabinet response to the findings of the Planning and Transportation Commission Topic Review on Backland Development. The report indicated that the Planning and Transportation Commission had undertaken a review of residential development on former domestic gardens in the City.

Subsequently the Commission had agreed a set of recommendations at its meeting on 21 January 2008 and reported these to the Planning and Transportation Cabinet Member meeting on 4 February 2008. It was agreed at that meeting that the recommendations should go forward to Cabinet for consideration. The Corporate Director Regeneration and Community was requested to consider and prepare a response to each of the Commission’s recommendations which was set out in this report.

### **Decision**

To confirm the response to the recommendations made by the Planning and Transport Commission as set out in this report.

## **Key Decisions**

### **209/07      City Centre Eastern Fringes Area Action Plan – Amended Proposals for Public Consultation**

The Council Cabinet considered a report entitled ‘City Centre Eastern Fringes Area Action Plan – Amended Proposals for Public Consultation’. The report indicated that in September 2006, Cabinet was asked to consider a report on the publication for public consultation of the ‘City Centre Eastern Fringes Area Action Plan’ (CCEFAAP) ‘Preferred Option’ Report.

In December 2007, Cabinet was asked to consider another report on the CCEFAAP which recommended a change in approach to bringing forward regeneration. This was in response to concerns relating to ‘soundness’, the

changing aspirations of various key stakeholders and the potential delays that may be incurred in bringing forward regeneration. At this latter meeting, it was resolved to progress the CCEFAAP to the 'Preferred Options' stage for consultation, report the results back to Cabinet, and then suspend its production.

The report stated that the regeneration of Castleward would then be taken up through the selection of a 'preferred developer' who would prepare a planning application. The work done on the CCEFAAP would form part of the overall 'development framework' for the area, particularly in relation to Castleward.

An amended set of proposals had now been prepared for consultation and these were illustrated in Appendix 2 of the report. The general basis for these remained the same as those put forward in September 2006. It was still the intention to promote a new sustainable residential community, supported by a range of commercial and community facilities.

The report indicated that the most significant change related to land north of the River Derwent, where it was no longer proposed to identify it for housing that could come forward within the Plan period. This had already been reflected in Derby Cityscape's revised Masterplan, published last year.

Appendix 3 of the report provided a schedule of the main changes that had been included since September 2006 and the main reasons for the change. The initial delay in publishing the report was caused by the need to carry out further research to satisfy the requirements of the new planning system. Of most significance had been a Transport Plan and traffic modelling exercise. This had assessed the levels of traffic that may be generated by the proposals and what should be done to mitigate any impacts. The assessment suggested there would be increased traffic in the area but that the network would be able to accommodate new development trips provided appropriate mitigation was in place.

The report stated that it was vitally important to utilise the opportunities the area provided to appropriately restrict the demand to travel by car and promote more sustainable trips. This would be achieved through a suite of measures that would be developed in partnership with developers, occupiers and users of the area.

## **Options Considered**

There were no options considered.

## **Decision**

1. To agree to the broad proposals set out in Appendix 2 for the purposes of public consultation and to delegate authority to the Director of Regeneration and Community and the Cabinet Member for Planning and Transport to finalise the proposals, subject to the findings of the Sustainability Appraisal and validation of any outstanding research.

2. To authorise the Director of Regeneration and Community to finalise the text and format of the full documentation and supporting documents for the purpose of publishing all for a 6 week consultation period.

## **Reasons**

There were no reasons.

## **210/07 Building Schools for the Future – Local Education Partnership**

The Council Cabinet considered a report on Building Schools for the Future – Local Education Partnership. The report indicated that there was an expectation from the Department for Children, Schools and Families (DCSF) and Partnerships for Schools (PfS) that authorities included in the Building Schools for the Future Programme (BSF) transformation programme would adopt the Local Education Partnership (LEP) model.

The LEP model included the requirement for a managed service for ICT for those schools in the BSF programme. The government's default model for unlocking the £205 million capital investment for Derby as part of BSF was the LEP. This was a public / private partnership in a legal form, prescribed by Partnerships for Schools (PfS). The LEP model was detailed further in the report.

The report stated that there was a complex process in establishing a LEP company in which the Council would be a 10% shareholder, with a right of veto. It also stated that this was an initial report for Cabinet to approve in principle the LEP model for Derby's BSF programme. There would be further reports to Cabinet in due course, including consideration of the scope of services to be included in Derby's LEP.

## **Options Considered**

The LEP was the default procurement model as prescribed by the Government for authorities in the BSF transformation process. How this applied to Derby was under full consideration as part of the development process, and further reports would be brought to Cabinet in due course.

## **Decision**

1. To approve in principle:
  - the Local Education Partnership (LEP) procurement model for the Building Schools for the Future (BSF) investment programme
  - an integrated managed service to deliver ICT to schools within the BSF programme as part of the LEP.

2. To note that a further report would be provided to the Council Cabinet in due course.

## **Reasons**

1. The BSF programme represented a huge opportunity to transform secondary education in Derby with substantial levels of investment.
2. The Council was required to provide a commitment to the LEP procurement model as part of the Readiness to Deliver submission back in 2006, on the basis of which Derby was included in wave 5 of the BSF programme, and then in the remit meeting in October 2007, which formally launched our programme. The report sought to formally adopt this position.

## **211/07 Highways and Transport Work Programme**

The Council Cabinet considered a report setting out the proposed 2008/09 Highways and Transport Work Programme. The programme had been developed in extensive consultation with Neighbourhood Forums / Boards, Members and key stakeholders.

The report indicated that there were a number of recommendations seeking authority for the Corporate Director of Regeneration and Community, in consultation with the Cabinet Member for Planning and Transportation and the Highways and Transport Programme Board to make amendments to the programme as changes become apparent in the development and delivery of schemes. This was primarily to enable the programme to be implemented at a detailed level as appropriately as possible and to respond quickly to changing priorities throughout the year.

Specific recommendations were also included:

- to enable continued progress with Connecting Derby, the city's major integrated transport scheme
- to passport Road Safety Grant funding to the Derbyshire Road Safety Partnership to address casualty reduction as part of the Local Area Agreement.
- to approve specific bids for new funding

Extensive work had been carried out in developing the programme to be as inclusive as possible, with a very open process and Cabinet were asked to support the recommendations.

Additional information available on the Council's CMIS system was:

- the Highways and Transport Work Programme - Consultation and Approvals Process. It provided Members and Neighbourhood Teams advisory notes on the overall process and their opportunities to contribute
- the executive summary of the Derby Joint Local Transport Plan: 2006 – 2011, LTP2, which set out our long term transport strategy for Derby and the surrounding rural area. It provided the basis for the assessment for prioritising the requests received for all forms of transport improvements.

Following Cabinet approval of the programme, officers would also provide the following information to Neighbourhood Boards to provide a clear position on all of the issues that were considered for inclusion in the work programme:

- the officer recommendations for progressing all Neighbourhood Board priorities, received during the consultation process between September and December 2007. The document highlighted what issues and measures were included in the Highways and Transport Work Programme for investigation or delivery, within each ward in 2008/09, as a result of a detailed technical appraisal by officers. It also clearly stated what would not be investigated or developed further in 2008/09
- the preparation pool of outstanding carriageway, footway and structural maintenance schemes, that were not included within the work programme, of which some may be brought forward, should additional funding become available

## **Options Considered**

Compilation of the programme had involved consideration of various options for the inclusion of projects within the proposed programme. The draft programme recommended was considered to best fit the objectives of the LTP and the priorities of Members.

## **Decision**

### **1. To approve:**

- (a) the apportionment of LTP capital funding across the strategy areas, as set out in table 1.1, in appendix 2
- (b) revised financial limits, below which delegated decisions could be made, to facilitate changes to strategy area totals, as set out in the financial implications in appendix 1
- (c) the 2008/09 Highways and Transport Work Programme, for both capital and revenue funded projects, detailed in appendix 2, in line with the approved 2008/09 capital and revenue budgets
- (d) the passporting of the Road Safety Grant to the Derbyshire Road Safety Partnership, to continue the partnership initiatives

towards casualty reduction, subject to any funding approval processes required as part of the delivery of the Local Area Agreement.

2. To authorise the Corporate Director of Regeneration and Community, in consultation with the Cabinet Member for Planning and Transportation and the Highways and Transport Programme Board to:
  - (a) review the progress of schemes within strategy areas, respond to changing priorities throughout the year, potentially introduce new schemes or bring forward the implementation of some schemes at the expense of others and where necessary, reallocate funding between the strategy areas, subject to the new approved limits set in the financial implications.
  - (b) approve and utilise additional developer contributions from further external sources and any other approved external funding, as consultation and detailed design progress throughout the year.
  - (c) progress with the delivery of the Connecting Derby major scheme, in line with the annual capital allocation and within the overall scheme cost estimate of £33.28million
  - (d) approve, finalise and submit the major scheme business case, and to submit a bid, for London Road replacement railway bridge and detailed design of corridor improvements.
3. To delegate powers to the Corporate Directors for Regeneration and Community and Resources, in consultation with the Cabinet Member for Planning and Transportation and the Highways and Transport Programme Board, to approve, finalise and submit the Cycle Derby Phase 2 bid to Cycling England, to be submitted by 31 March 2008 to continue funding to support cycle training and infrastructure to facilitate sustainable transport.
4. To note the:
  - (a) intention to bring a further report to Cabinet in autumn, confirming the broad strategic programme for the remaining years of LTP2
  - (b) the development work required to produce and publish the LTP Progress Report, in consultation with key stakeholders, to be presented to Derby City Partnership by December 2008.

## **Reasons**

1. Approval of the work programme before the start of the 2008/09 financial year, would allow flexibility to prioritise work and enable detailed design to commence at the earliest opportunity. The main objective was to ensure that highway transport schemes and initiatives were delivered in the best possible way and achieve maximum value for money. Prompt delivery in the early months of 2008/09 through our

Highways Term Maintenance Contract was essential to ensure we met shared targets on the Partnership Contract.

2. Within this programme, a number of issues had been included for investigation in 2008/09. Additional funding had also been set aside to progress any number of investigations, which subject to favourable consultation, completed detailed design and approval from the Highway and Transport Programme Board, may be implemented within 2008/09. If these issues do come to a point where we could deliver some improvements and / or other priorities were identified during the course of the year, the Highway and Transport Programme Board could review progress on schemes and projects within the programme and where appropriate, re-allocate funding, without any significant delays. Any revisions to the programme would still need to reflect the implementation programme set within LTP2.
3. Approvals sought through the Highways and Transport Programme Board would enable us to identify risks to delivery of schemes, for example, at a strategic, corporate, programme or project level. Members of the Highways and Transport Programme Board included senior management as well as the Cabinet Member for Planning and Transportation, who together, would be able to review and monitor the programme, ensuring risks did not escalate and where possible, were eliminated. This would also work towards the performance risk register, set in LTP2, for the delivery of schemes and achievement of targets.
4. Specific approvals were required from Cabinet for us to progress some of the specific areas within the work programme. These included:
  - Connecting Derby
  - Derbyshire Road Safety Partnership
  - New funding bids

## 212/07 Connexions Service Transition

The Council Cabinet considered a report on Connexions Service Transition indicating that the City Council was part owner of Connexions Derbyshire Ltd, along with Derbyshire County Council, the University of Derby and the Derbyshire / Nottinghamshire Chamber of Commerce.

Connexions Derbyshire Ltd had voluntarily pooled its Connexions grant into the Local Area Agreements in Derby and Derbyshire since 2006. The statutory duties and funding for all Connexions services pass from April 2008 to all local authorities (working through Children's Trusts) and as a result, from that time onwards, local authority (LA) procurement rules were applicable. The three statutory duties associated with the Connexions arrangements were Information, Advice and Guidance (IAG) in relation to careers, encouraging

participation in education and training and providing assessments to young people with learning difficulties or disabilities.

The report stated that at its meeting on 20 March 2007, Cabinet had agreed a transitional arrangement with Connexions Derbyshire for services up to March 2009, subject to decisions under the Local Area Agreement. The Government now expected every LA would have determined future arrangements for Connexions by the end of March 2008.

In recent months, officers from the two authorities had analysed the options for future delivery in the context of developing integrated youth support services as part of the 'Every Child Matters' agenda. In practice, the proposals for delivery of Connexions services would need to be similar for each authority.

### **Options Considered**

As set out in the report.

### **Decision**

1. To authorise the Corporate Directors for Children and Young People and Corporate and Adult Services to:
  - (a) in consultation with the respective Cabinet Members, take steps to ensure that Connexions Derbyshire Ltd becomes a company wholly owned and controlled by the Council jointly with Derbyshire County Council
  - (b) enter into a member's agreement with the County Council setting out the detailed provisions as to the control of the company.
2. To waive contract procedure rules to permit the award of the contract for Connexions services to Connexions Derbyshire Ltd in accordance with the arrangements described in the report.
3. To note that the arrangements for providing Connexions services will be closely monitored and that further reports will be presented to Cabinet.

### **Reasons**

Having examined the options it was believed that, on balance, transferring the existing Connexions company to one wholly owned by the local authorities provided the best way forward in our local circumstances

## Budget and Policy Framework

### 213/07 Capital Monitoring 2007/08 Update

The Council Cabinet considered a report entitled Capital Monitoring 2007/08 Update. The report stated that Cabinet approved the latest capital programme for the 2007/08 at its meeting on 27 November 2007. Since then the programme had been updated to reflect changes approved through Contract and Financial Procedure Matters reports and individual departmental cabinet reports.

The report provided an update on the projected variance on the programme and sought approval for changes to be made to the 2007/8 programme and to future years programme previously reported to 19 February 2008 Cabinet in the capital budget report 2008/9 – 2010/11.

#### **Decision**

1. To approve:
  - (a) changes to the capital programme as set out in paragraph 1.2 – 1.3 and Appendix 2 of the report
  - (b) the addition of the schemes detailed in paragraph 1.4 of the report to the 2007/08 capital programme.
2. To note the:
  - (a) projected outturn and variance of capital risk budgets shown in Table 2 of the report
  - (b) capital risk budgets identified by departments and progress on those schemes as listed in Appendix 5 of the report.

## Contract and Financial Procedure Matters

### 214/07 Contract and Financial Procedure Matters Report

The Council Cabinet considered a report on Contract and Financial Procedure Matters Report. The report dealt with the following items that required reporting to and approval by Council Cabinet under contract and financial procedure rules:

- Revised childcare charging policy

- Additional external funding for the extension of the wireless marketplace across the Cathedral Quarter
- External network penetration testing contract approval

Having declared an interest in this item Councillor Williams left the meeting when consideration was given to the revised childcare charging policy.

## **Decision**

1. To agree the revised childcare charging policy for recommendation for adoption by maintained schools, Children Centres and Extended Services Schools.
2. To increase future childcare charges each year to reflect the standard rate of inflation, with a report back to Council Cabinet only if a significant deviation is proposed.
3. To approve:
  - (a) the addition to the capital programme for an extension to the wireless marketplace at a cost of £110,000 funded by a grant from Derby and Derbyshire Economic Partnership
  - (b) the procurement of the wireless network equipment from Synetrix as an extension to the existing wireless network framework agreement
  - (c) the appointment of Supplier A on a two year contract to carry out external penetration testing at a cost of £16,630, under contract procedure rule C24.5

## **215/07 Purchase of Former Railway Land between A38 Kingsway Junction and Station Road, Mickleover**

The Council Cabinet considered a report relating to the purchase of former railway land between A38 Kingsway Junction and Station Road, Mickleover. The report set out the reasons for the purchase of the land and also highlighted potential future liabilities that would be transferred to the City Council as part of the land sale and the costs involved.

The report indicated that the land was required in order to facilitate the long term transport strategy to implement the proposed Mickleover/Mackworth Express Bus-Way between the City Centre and Mickleover. As such, the British Rail Board (Residuary) Limited had offered the land to the City Council to buy. The sale of this land formed part of a portfolio of land holdings across the Country that BRB want to dispose of before 31 March, 2008. BRB had advised the Council that they would auction the land if agreement on the land sale could not be reached by this date.

The report stated that the Council were in negotiation with BRB over the potential maintenance liabilities of Station Road Bridge and were looking to secure a financial contribution from them for future maintenance taking into account the land sale price. However, BRB may feel that the liabilities of the bridge and land sale costs were a reasonable sale offer. If this was the case, the City Council would need to assess the total financial costs and liabilities against the risk of a third party buying the land. Cabinet were asked to delegate the decision on this potential land purchase to enable a quick decision to be taken should an appropriate agreement be reached.

## **Decision**

1. To approve in principle the purchase of the former Railway Land between the A38 Kingsway junction and Station Road Mickleover, to facilitate the long term transport strategy proposal to implement the Mickleover/Mackworth Express Bus Link.
2. Subject to agreement by the Chief Estates Officer of the value for money, to authorise the Director of Regeneration and Community, in consultation with the Corporate Director Corporate and Adult Services, the Cabinet Member for Planning and Transportation and Cabinet Member for Personnel, Performance Management and Economic Development to finalise the purchase of 18.71 acres of land at Mickleover (part of a former test track) from British Rail Board (Residuary) Limited ("BRB"), subject to an appropriate purchase agreement being reached.

## **216/07 Derby Pointer Citizen's Panel – October 2007 Survey Results**

The Council Cabinet considered a report on Derby Pointer Citizen's Panel – October 2007 Survey Results.

## **Decision**

1. To note:
  - (a) October's Derby Pointer survey results and the service managers' improvement plans
  - (b) the results and proposed service improvements would be reported to panel members in the next 'Panel News' newsletter, which would be sent out to panel members with the April 2008 survey.

## Other

### 217/07      Illegal Money Lending Unit – Authorisation of Officers

The Council Cabinet considered a report entitled Illegal Money Lending Unit – Authorisation of Officers. The report indicated that an Illegal Money Lending Unit for the East Midlands region had been set up in Nottingham. This Unit was staffed by Nottingham City Council officers who investigate complaints about 'loan sharks' and provide support to victims.

Until the Council received a letter from Nottingham City Council dated 11 February 2008, it had previously been understood that the Council's Environmental Health and Trading Standards Division would retain the power to institute, prosecute and defend proceedings – effectively leaving the unit at Nottingham with an investigative mandate only in our area. Had this been the case, there would have been no constitutional considerations for the Council. However, it was now known that the intention was for the Unit also to be able to institute legal proceedings.

The powers in question were Executive functions of the Council. It was therefore important that officers working for the Unit were effectively authorised to carry out enforcement action in the city of Derby under the appropriate legislation.

The report considered whether and how the Unit's officers should be authorised for this purpose. In that context, it should be noted that Derby City Council Trading Standards officers would retain their existing authority under the same legislation.

### Decision

1. That by virtue of the powers provided by Regulation 7 of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000, to delegate to Nottingham City Council's Executive the functions and powers listed below:
  - a) the discharge of the enforcement function and powers under the Consumer Credit Acts 1974 and 2006 and any legislation which amends or succeeds the same, including any secondary legislation made there under, in so far as it relates to illegal money lending for such cases and investigations as are agreed between the authorities.

- b) in the exercise of the function listed at a) above, to carry out, in so far as the law allows, similar powers in respect of any associated offence which may become apparent under other legislation or at Common Law including, but not limited to:
- The Administration of Justice Act 1970
  - The Business Names Act 1985
  - The Consumer Credit Act 1974
  - The Criminal Attempts Act 1981
  - The Criminal Justice and Police Act 2001
  - The Criminal Law Act 1977
  - The Fraud Act 2006
  - The Malicious Communications Act 1988
  - Consumer Protection Act 1987
  - The Offices Against the Person Act 1861
  - The Theft Act 1968 and 1978
  - The Proceeds of Crime Act 2002
  - Perverting the Course of Justice
  - False Imprisonment
  - Kidnap
  - Blackmail
2. To confirm that the delegation of these functions to Nottingham City Council's Executive did not in any way fetter the Council's discretion to investigate, instigate, prosecute or defend matters of a similar nature within its own administrative area under established constitutional arrangements.

MINUTES END