

Time began: 4.00pm
Time ended: 6.25pm

COUNCIL CABINET

15 July 2020

Present	Councillor Poulter (Chair) Councillors Barker, M Holmes, Roulstone, Smale, Webb, Williams and Wood
In attendance	Councillors AW Graves, S Khan, Repton, Shanker and Skelton Paul Simpson – Chief Executive Rachel North – Strategic Director of Communities and Place Andy Smith – Strategic Director of People Simon Riley – Director of Financial Services Emily Feenan – Director of Legal, Procurement and Democratic Services Heather Greenan – Director of Policy, Insight and Communications Steve Caplan – Director of Property Claire Davenport – Director of Leisure, Culture and Tourism Connie Spencer – Youth Mayor Priya Gill – Deputy Youth Mayor Keith Cousins – Communications Officer

This record of decisions was published on 17 July 2020. 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.

01/20 Apologies

There were no apologies for absence.

02/20 Late Items

In accordance with Section 100(B) (4) of the Local Government Act 1972, the Chair agreed to admit the following late items on the grounds that they should be considered as a matter of urgency

- **New Performance Venue**
Due to the impact of Covid 19, the opportunity for the project had only just come forward and any delay to its consideration may delay the project.
- **Silk Mill**
The Silk Mill was an important heritage asset which was owned by the Council. By demonstrating the Council's commitment to the Silk Mill Museum of Making it would help the project secure external funding to support the construction of the project which has recently been impacted by Covid 19.

03/20 Receipt of Petitions

There were no petitions

04/20 Identification of Urgent Items to which Call In will not apply

There were no items

05/20 Declarations of Interest

There were no declarations of Interest.

06/20 Minutes of the Meeting Held on 10 June 2020

The minutes of the meeting held on 10 June 2020 were agreed as a correct record.

Matters Referred

07/20 Recommendations from the Executive Scrutiny Board

The Council Cabinet considered a report on Recommendations from the Executive Scrutiny Board. The Executive Scrutiny Board met and discussed items contained within the Council Cabinet Agenda. The report enabled the views and recommendations resulting from these discussions to be formally shared with Council Cabinet. These were submitted to Council Cabinet as Appendix 1, prior to commencement of the meeting.

Decision

To receive the report and consider the recommendations alongside the relevant report.

Key Decisions

08/20 New Performance Venue

The Council Cabinet considered a report which sought authority to realise the Council's ambition for a major performance venue in the City Centre and to acquire a new 3,500 capacity, highly flexible, performance arena within the Becketwell Regeneration area ("Performance Arena").

The report also sought approval for the demolition of the Assembly Rooms site to facilitate future alternative use. To continue to work collaboratively with Derby's

cultural partners to maximise the cultural vibrancy of the city taking into account the impact of the new Performance Arena and of Covid19 on the wider visitor economy.

The report also sought authority to acquire 3rd party land to support the continued development of the Becketwell Regeneration area including the new Performance Arena and to authorise officers to commence and pursue Compulsory Purchase Order(s) where necessary.

The Executive Scrutiny Board recommended to Council Cabinet

1. that this proposal for a new performance venue is only carried forward once alternative accommodation has been found for the Padley Centre, recognising the key work conducted to support the homeless population in the city, and if this alternative accommodation cannot be found that the private operator is offered the current Assembly rooms site or appropriate accommodation for the Padley Centre is built into the Becketwell development;
2. that the proposal to demolish the current assembly rooms is only carried forward once alternative car parking provision for those that currently use the assembly rooms has been secured; and
3. that it considers very carefully the extent of the delegation that it is giving to officers and whether there is sufficient democratic oversight by councillors.

Options Considered

1. **Do nothing** – The Becketwell and Assembly Rooms sites were both absolutely critical to the successful regeneration, economic performance and vibrancy in the city centre. The option of allowing the Assembly Rooms to remain in situ as a redundant building and rejecting the proposal from SJS for a new Performance Venue at Becketwell was not considered the right one and did not deliver value for money. These proposals had a huge part to play in city centre regeneration the Council has a unique role in making them happen given the historic market failures.
2. **Deliver a new Performance Venue on the Assembly Rooms site** – The Council could choose an alternative site for a performance venue, with the Assembly Rooms site being the only one in the city centre and in Council ownership that was large enough. The proposal from SJS for delivery model based on a forward funding agreement was considered to deliver better value for money for the Council given the delivery risk transfer to the developer. On entering an Exclusivity Agreement with SJS as referred to above, the Council would not legally be able to pursue any alternative proposal for a venue of comparable specification to the one proposed by SJS.

Decision

1. To authorise the Strategic Director for Communities & Place following consultation with the Director of Finance, Director of Legal, Procurement and Democratic Services and the Cabinet Member for Regeneration, Planning and Transportation to take all necessary actions to finalise and enter into all necessary contractual arrangements to acquire a new Performance Arena, with the benefit of a lease to an operator, in the Becketwell Regeneration area, subject to defined financial parameters.
2. To authorise the Strategic Director for Communities & Place following consultation with the Director of Financial Services and the Cabinet Member for Finance and Procurement to submit bids for and consequentially accept external funding and enter into any external funding arrangements to support this acquisition or the wider regeneration of the Becketwell Regeneration area.
3. To authorise the Strategic Director for Communities & Place following consultation with the Cabinet Member for Regeneration, Planning and Transportation to seek alternative uses for the existing Assembly Rooms site and to bring forward a Cabinet report setting out options as soon as possible
4. To approve additions to the Council's Capital Programmes subject to approval through the Council's gateway process as follows:

	£000s
Becketwell Performance Arena	35,144
Becketwell Regeneration Area	1,400
Project Management Costs (Capitalised)	556

5. To approve prudential borrowing as the Capital Financing Source and include in the MTFP and Prudential Indicators for 2021/22 onwards.
6. To recommend to Council to approve an increase in the borrowing requirement by £37.100m to undertake this investment from prudential borrowing.
7. To delegate authority to the Director of Financial Services to profile the Capital Programme and the MTFP in line with the contractual arrangements for acquisition and operation of the Performance Arena.
8. To incorporate within the MTFP the revenue implications (including borrowing costs) detailed within this report.
9. To note that further reports will be brought forward to Cabinet in respect of

- (a) the re-provisioning of the Padley Centre; and
 - (b) Derby Arena (Velodrome) Business Case.
10. To acquire the Padley Centre site as part of the Becketwell Regeneration area site assembly by mutual consent. If this was not possible, to authorise the Director of Property to take all necessary steps to pursue compulsory purchase orders to acquire the Padley Centre site and any other third-party land to support the continued development of the Becketwell Regeneration area.
 11. To note that the Assembly Rooms building was surplus to requirements and the intended submission of a planning application by the Council to allow its demolition as the first stage in the redevelopment of the site.
 12. Subject to planning permission being secured to proceed with the demolition of the Assembly Rooms, to adopt an active strategy to ensure the regeneration of the Assembly Rooms site as soon as possible and in the interim secure appropriate meanwhile uses.
 13. To authorise the Strategic Director for Communities and Place, following consultation with the Cabinet Member for Governance and Licensing and the Director of Financial Services to enter into negotiations to terminate the contract for the refurbishment of the Assembly Rooms.
 14. To authorise the Strategic Director for Communities and Place, following consultation with the Cabinet Member for Governance and Licensing and the Director of Financial Services:
 - to invite tenders for the demolition of the Assembly Rooms and associated works;
 - to appoint a contractor to undertake such demolition and associated works, following a successful tender exercise;
 15. To allocate the balance of the existing Assembly Room Refurbishment capital approval (net of demolition and other costs) to the proposed Performance Arena scheme at Becketwell.
 16. To accept recommendations 1 and 3 from Executive Scrutiny Board
 - that this proposal for a new performance venue is only carried forward once alternative accommodation has been found for the Padley Centre, recognising the key work conducted to support the homeless population in the city, and if this alternative accommodation cannot be found that the private operator is offered the current Assembly rooms site or appropriate accommodation for the Padley Centre is built into the Becketwell development.

- that it considers very carefully the extent of the delegation that it is giving to officers and whether there is sufficient democratic oversight by councillors.

17. To reject recommendation 2 from the Executive Scrutiny Board.

Reasons

1. To bring forward proposals to create a new performance venue in the city centre to support the economic and cultural vibrancy of Derby City in line with the City Centre Masterplan 2030 and to support the city's economic recovery following the impacts of Covid 19.
2. To progress the demolition of the Assembly Rooms building and the development of a strategy to regenerate the Assembly Rooms site.

09/20 Property Improvement Capital Works Programme 2020/21

The Council Cabinet considered a report which proposed further details to the Property Capital Programme approved at Council Cabinet on 12 February 2020, across a proposed number of projects to form the 2020/21 Property Improvement Capital Programme.

The Property Improvement Work Programme was capitalised and funded corporately and contained the proposed repair and improvement projects. These had been prioritised against essential condition issues and health and safety requirements, including fire precaution works, upgrading of emergency lighting systems, renewing life expired heating systems, roof replacements, boundary wall improvements and improvements to the building fabric.

The work programme was managed and monitored by the Corporate Property Board in line with the governance arrangements of the Corporate Capital Programme Board.

The Executive Scrutiny Board noted the report.

Options Considered

The development of the Property Improvement programme had involved consideration of various options for the inclusion of projects. The programme recommended was considered to be the best way to meet statutory obligations and ensure building compliance, whilst the outcomes of the property rationalisation project are awaited.

Decision

1. To approve the Property Improvement Capital Programme of works for 2020/21 as detailed in Appendix 2 of the report. This included slippage amounts and spend bought forward.

The full Property Programme budget for 2020/21 had been allocated at £31,132 million, this was broken down as follows:

Summary	Total 20/21 Budget
MTFP	29,552,000
Plus Slippages	2,027,005
Less Spend bfw	-276,760
Less: Outturn slippages no longer needed	-170,044
Total Budget	31,132,201

2. To approve budget increase and reductions as well as new projects identified as listed in Appendix 2 of the report. This included projects that no longer needed funding, details of this were shown in paragraph 4.5, and a new project titled “project development”, details of this were shown in paragraph 4.8 of the report.
3. To continue to give delegated authority within the limits set out in the Terms of Reference (ToR). ToR limits were consistent with those set out in the Financial Regulations) to the Director of Property (as appropriate) following consultation with the relevant Cabinet Member, to enable them to respond to changing priorities throughout the year by introducing new schemes or bringing forward the implementation of some schemes at the expense of others.
4. To continue to give delegated approval to the Corporate Property Board to have oversight, assurance, and governance of the Capital Programme in accordance with the ToR
5. To continue to give delegated approval to the Corporate Property Board to allow for budget changes to be made on projects that span more than 1 financial year as long as the total project budget had been approved and that the changes were subject to affordability.

Reasons

1. The Property Capital Programme 2020 – 2021 was approved at Council Cabinet 12 February 2020 as part of the Medium-Term Financial Plan (MTFP) paper (Appendix 1 of the report). Following finalisation of feasibility reports, scheme designs and further investigation work, the report aimed to reallocate some of these budgets over a number of projects.
2. In the interests of the effective management of the programme, it was appropriate to maintain the delegated approvals as outlined in the Corporate Property Board ToR; to have the authority to review the programme and

reallocate funding on the basis of the outcomes of investigations, feasibility studies and progress of other schemes and changing health and safety priorities.

3. It was essential that the Property Improvement Work Programme remained flexible to accommodate the outcomes of internal reorganisations, restructures, changing work patterns and operational commitments and was able to accommodate the outcomes of decisions linked to the council's property rationalisation project.
4. Approval to the Capital Programme would ensure an alignment with the Corporate Asset Management plan and Estates Strategy, ensuring that investment was directed to the Council's retained assets contributing towards a safe, fit for purpose, efficient property estate.

Budget and Policy Framework

10/20 Final Accounts – 2019/20 Outturn Report for General Fund, Capital Programme, Treasury Management, Housing Revenue Account, Dedicated Schools Grant and Collection Fund

The Council Cabinet considered a report which summarised the overall Council's final outturn position, subject to external audit opinion, for the 2019/20 financial year. The report described the main variances against the revised budgets for 2019/20 and set out issues to note and requiring approval. In summary the outturn was as follows:

- a) **Revenue Budget:** The General Fund revenue outturn position was a balanced position when compared to the Revenue Budget for 2019/20. The balanced position was achieved after use of the Budget Risk reserve of £6.195m, as detailed in section 4.1 of the report. The Council's £7.813m savings target for 2019/20 had been delivered.
- b) **Capital Budget:** The capital programme outlined the delivery of 82.55% of the latest approved £107.248m capital programme. Details of the capital outturn for 2019/20 totalling £88.530m for work completed and an analysis of the £14.349m slippage against the final approved capital programme was set out in section 4.6 of the report.
- c) **Treasury Management:** Total debt for the Council was £446.672m and total investments were £76.873m compared to £443.176m and £67.838m as at 31 March 2019, as detailed in section 4.7 of the report.
- d) **Housing Revenue Account (HRA):** The HRA revenue outturn position showed a net deficit of £0.682m compared to a budgeted net shortfall of £4.507m. The overall HRA balances at 31 March 2020 were detailed in section 4.8 of the report.

- e) **Dedicated Schools Grant:** The Dedicated Schools Grant closed with a deficit of £0.250m on the central non-delegated items and individual school balances were £5.866m, as detailed in section 4.9 of the report.
- f) **Collection Fund:** The Council's share of the Collection Fund outturn was a deficit of £3.193m as detailed in section 4.10 of the report.

General Fund

During the year the Council managed and controlled spending on services through its General Fund. A summary of the net cost of running each main service area was set out in the report.

This spending was corporately financed from Council Tax, Business Rates, Government Grants and Reserves.

The Executive Scrutiny Board recommended to Council Cabinet.

- 1. that it should learn from the poor management of the Assembly Rooms saga and remember the importance of listening to and acting upon expert professional advice; and
- 2. that in relation to the refurbishment of the assembly rooms, it apologises for the dither, delay and indecision that has led to many wasted years, no performance venue in the centre of our city and staggering, "...abortive costs..." of £2.468 million.

Decision

- 1. To note:
 - a) The overall General Fund revenue budget outturn position for 2019/20 (subject to external audit) and budget variances at 31 March 2020 as set out in section 4.1.5 of the report.
 - b) The savings achieved in 2019/20 as summarised in section 4.1.7 of the report.
 - c) The Capital outturn and the Capital expenditure incurred during the year as summarised in section 4.6.2 of the report.
 - d) The addition of the A52 Artwork scheme of £0.100m funded from Highways and Transport underspends detailed in section 4.6.31 of the report.
 - e) The compliant prudential indicators in respect of the Treasury Management outturn, as outlined in section 4.7 of the report.

- f) The overall Dedicated Schools Budget position for 2019/20 as set out in section 4.9 of the report.
- g) The Council's share of the Collection Fund was a deficit of £3.193m as set out in section 4.10 of the report.

2. To approve:

- a) The final required movements in revenue reserves set out in section 4.1.3 of the report.
- b) The creation of a COVID 19 reserve for the balance of the initial allocation of government grant for COVID 19 after use of £0.527m to fund eligible expenditure in 2019/2020 as outlined in section 4.1.4 of the report.
- c) To delegate authority to the Director of Financial Services any further transfers to and from the COVID reserve as appropriate.
- d) The transfer from the Budget risk reserves of £6.195m as set out in section 4.1.6 of the report to achieve a balanced out-turn position.
- e) The addition of net £13.414m budget (slippage £14.349m and spend brought forward (£0.935m)) to the 2020/21 capital programme as detailed in Appendix 2 of the report.
- f) The use of the Assembly Rooms service reserve to fund £1.287m abortive costs on the Enhanced assembly rooms scheme detailed in section 4.6.40 of the report.
- g) The capitalisation of the rectification costs for the waste treatment plant costs of £2.140m to be funded from reserves as detailed in section 4.6.34 of the report.
- h) The use of underspend (£0.330m) from the vehicles plant and equipment programme to fund electric vehicles and the addition of these vehicles to the 2020/21 capital programme as detailed in section 4.6.33 of the report.
- i) The HRA outturn net deficit of £0.682m as set out in section 4.8 and Appendix 4 of the report.
- j) The 2019/20 Private Finance Initiative Reserve movements as set out in Appendix 3 of the report.

3. To authorise the Section 151 Officer to adjust the Council's Reserves if the Council or its External Auditors (Ernst Young) require any adjustments to the Final Accounts for 2019/20 that alter the overall Council's position.

4. To reject the recommendations from Executive Scrutiny Board.

Contract and Financial Procedure Matters

11/20 Compliance with Contract and Financial Procedure Rules

The Council Cabinet considered a report which dealt with the following items which required reporting to and approval by Council Cabinet under the Contract and Financial Procedure Rules.

- Acceptance of Funding – Department for Transport (DfT)

The Executive Scrutiny Board noted the report.

Decision

To accept £0.262m Access Fund grant from the (DfT) to enable the continuation of existing Access Fund projects.

12/20 Museums Trust – Request for Loan and Capital Contribution for the Museum of Making Silk Mill Project

The Council Cabinet considered a report which sought approval to support both a request for a loan and a capital contribution to the Museums Trust.

The Museums Trust had approached the Council for a loan of £914,000 to assist with cash-flow to enable the completion and subsequent opening of the Museum of Making project at Derby Silk Mill.

As a result of the Covid-19 pandemic, the government implemented a lockdown in March 2020 and this had impacted on the delivery of the Museum of Making project. The projected opening of the new museum had been moved from September 2020 to Spring 2021. This had resulted in there being an increase to the financial amount for capital needed by the Museums Trust to complete the project. They had approached the Council for support and were seeking a capital contribution from the Council of £364,000. External funders had also been approached to request a capital contribution.

Culture had an important role in the future of Derby and the Museum of Making would be a unique asset and a central driver for future city ambition. Appendix 1 of the report described the strategic cultural links of the project.

The Executive Scrutiny Board noted and endorsed the report.

Decision

1. To approve the Council providing a loan to the Museum's Trust of up to a maximum value of £914,000 to support the organisations cash-flow for 20/21. This was to be offered at an interest rate of 3.02% and to be paid back within 12 months. To note the specific terms would be developed with input from Legal Services.
2. To approve the loan be added to the councils 2020/21 capital programme and that the loan be funded temporarily from the councils unapplied capital receipts.
3. To approve the Council providing the Museum's Trust up to a maximum value of £364,000 funded from the existing capital contingency reserve as a capital contribution towards the completion of the construction of the project thus enabling the Museums Trust to complete the Museum of Making in line with the strategic brief.
4. To note the recommendation from Executive Scrutiny Board.

Performance

12/20 – Council Delivery Plan Monitoring – Quarter 4

The Council Cabinet considered a report which stated that in July 2019, Council approved the Council Plan 2019 – 2023, with Council Cabinet approving the supporting Council Delivery Plan in the same month. The underpinning performance framework and priority targets were approved in September 2019.

The report presented a consolidated overview of performance; bringing together priority performance measures, projects and strategic risks, in line with the Council Plan themes along with progress on Delivery Plan actions.

At the end of Q4 (March 2020), 54% of our priority performance measures had improved from the positions reported at the end of March 2019, with 71% of our supporting Delivery Plan actions being evaluated as 'on track' or 'completed'. 87% of the 15 current priority projects were rated as either 'green' or 'amber/green,' and for our 16 strategic risks, 98% of controls were assessed as established.

A summary of notable performance highlights was set out in paragraphs 4.3 to 4.21, with a full assessment of performance by Council Plan theme at Appendix 1 of the report.

The Executive Scrutiny Board noted the report.

Decision

To note the latest performance position, paying particular attention to our strategic risks and emerging priorities for improvement.

13/20 Annual Report and Review of Performance 2019/20

The Council Cabinet considered a report which stated that every year we produce a short Annual Report, which is published alongside our Annual Review of Performance that presents a summary of our progress against agreed priorities from the last year.

These documents were important in communicating the work that we delivered, our achievements and the challenges we had encountered. They also complemented the Statement of Accounts and Annual Governance Statement that, by necessity, were technical in nature and published separately.

The Executive Scrutiny Board noted the report.

Decision

To approve the Annual Report and Annual Review of Performance for publication.

14/20 Exclusion of the Press and Public

Resolved that under Section 100(A) of the Local Government Act 1972, the press and public be excluded from the meeting during discussion of the following items on the grounds that they involved the likely disclosure of exempt information as defined in paragraphs 3 and 5 of Part 1 of Schedule 12A of the Act and that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Key Decisions

15/20 New Performance Venue

The Council Cabinet considered exempt information in relation to the New Performance Venue.

The Executive Scrutiny Board noted the report.

MINUTES END