

Time began: 4.00pm  
Time ended: 5.17pm

## **COUNCIL CABINET**

### **12 July 2023**

|               |   |
|---------------|---|
| Present       | Councillor Shanker (Chair)<br>Councillors Dhindsa, Hezelgrave, S Khan, Martin, Peatfield,<br>Swan and Whitby  |
| In attendance | Councillors Hassall, Poulter and Prosser<br>Paul Simpson – Chief Executive<br>Emily Feenan – Director of Corporate Governance, Property<br>and Procurement and Monitoring Officer<br>Alison Parkin – Director of Financial Services<br>Heather Greenan – Director of Policy Insight and<br>Communication<br>Gurmail Nizzer – Director of Integrated CYP Commissioning<br>Muhammad Muntasir - Youth Mayor<br>Harman Kaur - Deputy Youth Mayor<br>Ed Green and Kara MacFadyen – Communications Officers |

This record of decisions was published on 13 July 2023. 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.

### **17/23      Apologies**

There were no apologies.

### **18/23      Late Items**

There were no late items.

### **19/23      Receipt of Petitions**

There were no petitions.

### **20/23      Identification of Urgent Items to which Call In will not apply**

There were no items.

### **21/23      Declarations of Interest**

There were no declarations of interest.

## 22/23 Minutes of the meeting held on 14 June 2023

The minutes of the meeting held on 14 June 2023 were agreed as a correct record.

### Matters Referred

#### 23/23 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.

#### **Decision**

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

#### 24/23 Minute Extracts from Children and Young People Board

The Council Cabinet considered minute extracts 54/22 and 04/23 Education Health Care Plans Quality and Timeliness. The Board requested that Council Cabinet ask for a review of Tribunals to be undertaken to understand common themes and reasons for going to Tribunal, and the main reasons for children and young people being placed out of area.

The Executive Scrutiny Board noted the minute extracts.

#### **Decision**

To accept the recommendation from the Children and Young People Board to ask for a review of Tribunals to be undertaken to understand common themes and reasons for going to Tribunal, and the main reasons for children and young people being placed out of area.

### Key Decisions

#### 25/23 Proposal to Extend the Age Range and Size of Kingsmead Special School

The Council Cabinet considered a report which stated that Kingsmead Special School offered a variety of specialist provision and currently provided 90 places for pupils aged 11-16. As part of Derby City Council's SEND Strategy and Vision -

'Living My Best Life', a proposal had been developed to permanently extend the age range of Kingsmead Special School from 11-16 to 7-18 from September 2023.

The proposal would result in 20 primary places being created in Year Groups 5 and 6, making a maximum number of 110 pupils at the school. In addition, the proposal was for a small number of post-16 places (up to 5 places) to be provided on a personalised, individual basis, within the 90 secondary places available.

The proposal was considered as very positive as it aimed to increase special school places, bringing provision into the City, to meet with growing demand. The additional capacity would result in greater potential for children to access provision locally, within Derby.

The Governing Body of Kingsmead Special School, supported by the Council, had taken forward a statutory process on the proposal including a four-week initial consultation period, which ran from 27 March 2023 to 24 April 2023, and the publication of a statutory notice on 8 May 2023 with a further four-week formal representation period. A copy of the Statutory Notice was attached as Appendix 1 to the report.

The responses received during the initial consultation period were summarised in Appendix 2 of the report. All comments received were carefully considered by the Governing Body and a decision taken to progress to the next stage of the process, including a formal representation period. No comments or objections were received during the formal representation period.

Given the need for additional specialist support for children and young people with SEMH needs in the City, this report recommended that Council Cabinet approve the proposal to extend the age range and size of Kingsmead Special School from September 2023. Kingsmead Special School was a maintained school, for which the Council was responsible.

The Executive Scrutiny Board noted the report.

### **Options considered**

A range of options had been considered on SEND proposals, in co-production with the local area, to help inform a series of priorities. The Kingsmead Special School proposal had been identified as part of that process.

### **Decision**

To approve the proposal to extend the age range of Kingsmead Special School from 11-16 to 7-18, creating an additional 20 places at the school, from September 2023

## Reasons

Through the development of Derby City Council's SEND Strategy and Vision - 'Living My Best Life', and careful consideration of local SEND data, it had been identified that there was a growing need for Social, Emotional and Mental Health (SEMH) provision in the City. The proposed additional specialist places would increase opportunities for children and young people with SEND to attend a local school. The Governing Body of Kingsmead Special School had carried out the statutory process on the proposal, including consultation with a wide range of interested parties. Council Cabinet was asked to take the final decision on the proposal.

### 26/23 Statutory Consultation Outcome on the Viability of Ashgate Nursery School

The Council Cabinet considered a report which stated that Ashgate Nursery School was located on the outskirts of the Mackworth and New Zealand Ward, just off Ashbourne Road, and had been federated with Central Nursery School for many years. The nurseries shared the same Headteacher and Governing Body but had separate financial budgets. Both nurseries had a 'Good' Ofsted judgement.

Both Ashgate Nursery School and Central Nursery School ended the 2022/23 financial year in significant financial deficit. A reduction in numbers, the COVID-19 pandemic, and a reduction in demand for additional childcare sessions had all impacted significantly on the projected income streams of Ashgate Nursery School.

The Council had worked together closely with the Governing Body of Ashgate Nursery School and Central Nursery School to try to find a solution, but the financial deficit had continued to increase over the years.

Initial and statutory consultations had now taken place on a proposal to close Ashgate Nursery School from 31 December 2023. The responses to the initial consultation were reported to Council Cabinet at its meeting on 15 March 2023. The Council received 225 responses to the initial consultation, 204 (91%) of which were in objection to the proposal.

At its meeting on 15 March 2023, Council Cabinet approved the publication of a legal notice on the proposal to close Ashgate Nursery School. The publication of this notice marked the start of a further four-week statutory consultation period, which ran from Tuesday 9 May 2023 to Tuesday 6 June 2023. A copy of the legal notice on the proposal was attached as Appendix 1 to the report. A total of 37 responses objecting to the proposal to close Ashgate Nursery School were received during the statutory notice period.

Following a change of administration and further careful consideration of all consultation responses, the report recommended that alternative options were now developed to address the financial deficits at Ashgate Nursery School and Central Nursery School and that Ashgate Nursery School should remain open.

The Executive Scrutiny Board recommended to Council Cabinet

1. that no cuts or closures be made to Central Nursery School, or any other Nursery School or educational establishment, to secure funding for Ashgate Nursery School; and
2. that Council Cabinet be provided with details and then considers the financial impact on all other nurseries, and on every Early Years pupil, of keeping the Ashgate Nursery open.

### **Options considered**

Following further careful consideration of all of the responses, the proposal was not to proceed with the closure of Ashgate Nursery School and alternative options would be developed in relation the budget deficits at Ashgate Nursery School and Central Nursery School. A new proposal to address the budget deficits and keep both nurseries open would be explored.

### **Decision**

1. To approve a decision not to close Ashgate Nursery School.
2. To delegate authority to the Strategic Director for People Services, following consultation with the Cabinet Member, to undertake an appraisal to develop options to address the financial deficits at Ashgate Nursery School and Central Nursery School.
3. To reject the recommendations from the Executive Scrutiny Board.

### **Reasons**

The responses to the initial consultation and statutory consultation on the proposal to close Ashgate Nursery School showed that the large majority of respondents preference was that the nursery should remain open. Following a change of administration, the proposal was therefore to explore alternative options to deal with the financial deficits at both Ashgate Nursery School and Central School to allow both nurseries to remain open and become financially viable.

## **27/23 Food Safety, Food Standards, Animal Feed and Health and Safety Service Plan**

The Council Cabinet considered a report which sought approval for the adoption of the Food Safety, Food Standards, Animal Feed and Health and Safety Service Plan 2023-24. The statutory plan set out the Councils regulatory function in these service areas.

The Council was required to prepare a documented plan for Food Safety (FS), Food Standards (FAST), Animal Feed and Health and Safety that it had a duty to

enforce and set out how the authority intended to deliver its official controls and enforcement responsibilities within the city.

The plan combined previously separate plans for Food and Health and Safety.

The Executive Scrutiny Board noted the report.

### **Options considered**

The Food Safety, Food Standards, Animal Feed and Health and Safety plan must be reviewed on an annual basis as there was a legal duty for this.

### **Decision**

1. To adopt the Food Safety, Food Standards, Animal Feed and Health and Safety Service Plan, for the administrative year 2023/24.
2. To continue to support Food and Safety Team and Trading Standards Teams in their duties imposed on the authority by the Food Standards Agency (FSA) and Health and Safety Executive (HSE).
3. To authorise the Director of Public Protection and Streetpride, following consultation with the Cabinet Member for Housing, Property and Regulatory Services, to agree any necessary amendments to this year's Food Safety, Food Standards, Animal Feed and Health and Safety Service Plan, as needed in the context of the ongoing challenges that may occur and to ensure the Plan is up to date. Officers would keep members fully updated through Cabinet Member and Council Cabinet meetings as appropriate.

### **Reasons**

#### **Food Safety, Standards and Feed**

1. Under the powers in the Food Standards Act 1999, the Food Standards Agency (FSA) oversees and monitors how Local Authorities enforce food and feed legislation. The FSA requires all Local Authorities to produce and approve an annual plan that sets out how it is going to execute its responsibilities.
2. The Plan would be used as a basis of any audit undertaken by the FSA.
3. The plan was written to meet all the requirements of the FSA, in terms of its content and format. The plan detailed the demands of the service, the risk-based work programme, and the resources available to deliver the required work. As with many other Council services, FAST and TS service face increasing demands, and catch up exacerbated by Covid-19 pandemic, which continue to be a significant challenge.

## Health and Safety

1. The plan meets the Councils statutory duties as an 'enforcing authority' under the Health and Safety at Work etc. Act 1974, detailing our priorities and responsibilities.
2. In the last six years, we had continued to redesign the way we delivered the Councils health and safety regulatory functions, to meet the Government's objective of reducing the health and safety burden on the business. This approach was specified in the National Code, which local authorities must comply with.
3. The plan was therefore written to meet all requirements of the HSE National Local Authority Enforcement Code in terms of its content and format.

## 28/23 Derby Youth Justice Plan 2023-24

The Council Cabinet considered a report which stated that the Crime and Disorder Act 1998 created the Youth Justice Board (YJB) and multi-agency Youth Offending Teams, requiring representation from Social Care, Health, Probation, Police, and education. The 1998 Act set the principal aim of the youth justice system.

(1) It shall be the principal aim of the youth justice system to prevent offending by children and young persons.

Derby's Youth Offending service was based within the Local Authority People Services Directorate, within Early Help and Children's Social Care. Local authorities had a statutory duty to submit an annual youth justice (YJ) plan relating to their provision of youth justice services. Section 40 of the Crime and Disorder Act 1998 sets out the youth justice partnership's responsibilities in producing a plan. It states that it was the duty of each Local Authority, after consultation with the partner agencies, to formulate and implement an annual youth justice plan, setting out how youth justice services in their area were to be provided and funded, how it would operate, and what functions it would carry out. The duty to produce an annual plan was also a requirement of the terms and conditions of the Youth Justice core grant, provided by the YJB to Youth Offending Services, which formed part of the services overall budget each year. Submission of an annual YJ Plan to the YJB satisfied the conditions for release of that grant.

Whilst the statutory requirements stated the minimum information required within the YJ Plan, guidance provided by the YJB set out further considerations for partnerships on both the content and structure of the YJ Plan; and asked for reflection on how the service takes a strength-based approach towards delivering a child first justice system.

Annual YJ plans were an opportunity to review performance and developments over a single year period and plan for the next year, which allowed services to respond to changes that had taken place in the previous year, including new legislation, demographic changes, delivery of key performance indicators, and developments in service delivery. The planning and production of a Youth Justice

Plan was beneficial to partnership working and service delivery to ensure the best outcomes for children.

The report set out the key elements of Derby's YJ plan, the process of consultation and planning that took place to produce the plan, the sign off arrangements and how the plan was reviewed.

The Executive Scrutiny Board noted the report.

### **Options considered**

1. The YJ plan was a statutory requirement under Section 40 of the Crime and Disorder Act 1998. The conditions of the YJ Grant were linked to completion and timely submission of the YJ plan and the YJB set a clear template and set of expectations as to plan content. Derby YOS had more than met these requirements, adding additional commentary on progress, developments, and structure, resulting in a slimmed down (from 2022-23) plan that remained comprehensive, ambitious but realistic.
2. There were no other viable options regarding submission of an annual plan in line with YJB expectations.

### **Decision**

To approve Derby's draft Youth Justice plan.

### **Reasons**

In 2023-24 it was a condition of the Youth Justice grant that Youth Justice plans were signed off by Council Cabinet. In previous years this had rested with the chair of the Youth Justice Partnership Board and Children and Young People's Scrutiny Panel, alongside Derbyshire Criminal Justice Board.

## **Contract and Financial Procedure Matters**

### **29/23 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 of £0.270m from the Department for Education (DfE) to Derby City Council for financial years 2023/24 and 2024/25 to implement a Staying Close offer for care experienced young people
- Approval of a licenced deficit for Harrington Nursery School



- Addition of two new schemes to the 2023/24 Parks and Open Spaces Capital Programme
- Loan proposal to Quad of £0.150m.

The Executive Scrutiny Board, in relation to the addition of two new schemes to the 2023/24 Parks and Open Spaces Capital Programme, resolved to ask Council Cabinet to welcome the contributions of Friends of Parks Groups to the city, of which these two projects are excellent examples.

### **Options considered**

1. Staying Close offer for care experienced young people.  
We had assessed options for utilising the DfE funding but feedback from young people and the weight of thought across the partnership was that hands on and direct support to develop skill sets needed for adulthood was the best way of investing the funding to support better outcomes for young people.
2. Sinfin Moor Park  
The council had considered not replacing the existing zipwire. This would not meet the needs of the local community as there was a desire from the Friends group and the local community to have this piece of equipment replaced. We have also considered not carrying out works on the wooden trim trail, which would potentially leave an unsafe piece of equipment.
3. Chaddesden Park  
We had considered having no further improvements to the play area. This would not meet the needs of the local community as there was a desire to improve the play area to improve the play value and inclusivity and the Friends group had been fundraising towards this. The roundabout would replace the spinning disk that was removed from site 2 years ago.
4. QUAD Loan  
There was the option to not provide the requested loan facility to QUAD. However, this would increase financial risk to the organisation and slow the pace of their recovery. QUAD was a key cultural organisation that could support city centre regeneration through increased vibrancy and placemaking. Slowing the pace of QUAD's recovery would have impact on the wider city centre.

### **Decision**

1. To note the acceptance £0.270m of funding from the Department for Education for financial years 2023/24 and 2024/25 to implement a Staying Close offer for care experienced young people as outlined in section 4.1 of the report.

2. To approve delegated authority to the Strategic Director for People Services following consultation with the Cabinet Member for Children and Young People and Skills to accept the conditions set out in the Section 31 Grant Agreement and a Memorandum of Understanding, (subject to agreed terms for both) which would allow operational managers to implement the Staying Close model for Derby using Department for Education funding as outlined in section 4.1 of the report.
3. To approve a licenced deficit for Harrington Nursery school in 2023/24 totalling £0.019m as outlined in section 4.2 of the report.
4. To approve the addition to the 2023/24 Parks and Open Spaces Capital Programme of a scheme for the installation of Zipwire and Balance Beam at Sinfin Moor Park play area for £0.024m as outlined in section 4.3 of the report.
5. To approve the addition to the 2023/24 Parks and Open Spaces Capital Programme of a scheme for play area improvements at Chaddesden Park for £0.017m as outlined in section 4.4 of the report.
6. To approve the provision of a loan of £0.150m to Quad as outlined in section 4.5 of the report.
7. To delegate authority to the S151 Officer (Director of Finance) to negotiate and agree the final conditions of the loan.
8. To accept the recommendation from the Executive Scrutiny Board to welcome the contributions of Friends of Parks Groups to the city, of which these two projects are excellent examples.

## **Reasons**

To comply with the Council's Financial and Contract Procedure Rules.

## **Performance**

### **30/23      Annual Report and Review of Performance 2022/23**

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

These documents were important in communicating the work that we deliver, 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.

### **Options considered**

None.

### **Decision**

To note the Annual Report and Annual Review of Performance.

### **Reasons**

1. To inform the public and our key stakeholders about our work in 2022/23.
2. To recognise the commitment and achievements of our colleagues in 2022/23.
3. To contribute towards meeting the Council's Best Value Duty and Code of Recommended Practice on Local Government Transparency.

## **31/23 Exclusion of 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 item on the grounds that it 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 Decision**

## **32/23 Long Term Waste Management Project Update**

The Council Cabinet considered a report which gave an update on the long term waste management project.

The Executive Scrutiny Board made a number of recommendations to Council Cabinet.

### **Options considered**

These were set out in paragraph 7.1 of the report.

### **Decision**

1. To approve the recommendations set out in paragraphs 2.1 to 2.8 of the report.
2. To accept recommendation 1 from the Executive Scrutiny Board subject to additional information being clarified in the minutes.

3. To reject the recommendations 2 and 3 of the Executive Scrutiny Board.

**Reasons**

These were set out in paragraph 3.1 of the report.

**MINUTES END**