

Time began: 6.00pm  
Time ended: 7.00pm

## **COUNCIL CABINET**

### **7 September 2016**

Present	Councillor Banwait (Chair) Councillors Afzal, Bolton, Eldret, Hussain, Repton, Russell and Shanker
In attendance	Councillors Graves, Poulter and Skelton Philip Hutchinson – Youth Mayor Paul Robinson – Chief Executive Andy Smith – Strategic Director of People Christine Durrant – Strategic Director Communities and Place Janie Berry – Monitoring Officer Martyn Marples – Director of Finance Heather Greenan – Head of Performance and Intelligence Cath Harcula – Head of Service

This record of decisions was published on 9 September 2016. 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.

### **50/16      Apologies**

Apologies for absence were received from Councillor Rawson and M Holmes.

### **51/16      Late Items**

In accordance with Section 100(B) (4) of the Local Government Act 1972, the Chair agreed to admit the following late item on the grounds that it should be considered as a matter of urgency because a decision was required before the next meeting:

- Addendum to Contract and Financial Procedure Matters

### **52/16      Receipt of Petitions**

There were no petitions received.

### **53/16      Identification of Urgent Items to which Call In will not Apply**

There were no items.

## **54/16      Declarations of Interest**

There were no declarations of interest

## **55/16      Minutes of the Meeting Held on 3 August 2016**

The minutes of the meetings held on 3 August 2016 were agreed as a correct record and signed by the Chair.

## **Matters Referred**

### **56/16      Recommendations from Corporate Scrutiny and Governance Board**

The Council Cabinet considered a report on Recommendations from Corporate Scrutiny and Governance Board. The Corporate Scrutiny and Governance 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 2, prior to commencement of the meeting.

#### **Decision**

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

## **Key Decisions**

### **57/16      Food and Feed Law Enforcement Plan 2016/17**

The Council Cabinet considered a report on Food and Feed Law Enforcement Plan 2016/2017. Each year the council must produce a Food and Feed Law Enforcement Plan. The plan was required to identify the obligations placed on the Council by the Food Safety Act 1990, the Safety and Food Hygiene (England) Regulations 2013, the Official Feed and Food Controls (England) Regulations 2006, The Food Labelling Regulations 1996, Food information regulations 2014. The Agriculture Act 1970 and The Animal Health Act 2006 and the resources made available to officers to discharge these obligations.

The Corporate Scrutiny and Governance Board recommended that performance around the number of high risk premises inspections and interventions be closely monitored and the level of resource be maintained as appropriate to retain performance at the target level.

#### **Options Considered**

If the Council takes no action the FSA have the power to remove food safety responsibilities and engage another authority to deliver the service. The likely scenario would be for a neighbouring Local Authority to be seconded to provide this service. If this did happen the Council would still have to fund the service but would lose Member and management control of the functions.

### **Decision**

1. To approve the Food and Feed Law Enforcement Plan 2016/2017.
2. To accept the recommendation of the Corporate Scrutiny and Governance Board that performance around the number of high risk premises inspections and interventions be closely monitored and the level of resource be maintained as appropriate to retain performance at the target level.

### **Reasons**

1. Under the powers given to it by the Food Standards Act 1999, The Food Standards Agency (FSA) oversees and monitors how Local Authorities enforce food safety legislation. The FSA require all Local Authorities to produce and approve an annual plan that sets out how it is going to discharge its responsibilities.
2. The Plans would be used as a basis of any audit undertaken by the Food Standards Agency (FSA).
3. The plan was written to meet all the requirements of the FSA in terms of its content and format. The plan details the demands on the service, the risk based work programme and the resources available to deliver the required work. As with many other Council services the service faces increasing demands with reducing resource.

## **58/16      Health and Safety Enforcement Service Plan 2016/17**

The Council Cabinet considered a report on Health and Safety Enforcement Service Plan 2016/17. We live in a society where we expect to be safe at work, be able to shop at businesses which do not put a significant hazard to us, and to a range of facilities, for leisure and other purposes, which we can enjoy safely. The Health and Safety at Work Act 1974 provides for this, but these standards can only be achieved, maintained and improved, through the work of the Health and Safety Executive (hereafter referred to as HSE) and Local Authorities, who enforce the provisions of the Act.

The Council is required to formally approve the Health and Safety Enforcement Plan 2016/2017, under the statutory National Local Authority Enforcement Code.

### **Options Considered**

None. The Service Plan was a statutory requirement.

## **Decision**

To approve the Health and Safety Enforcement Plan 2016/17.

## **Reasons**

1. The Health and Safety Enforcement Plan 2016/2017 meets the Council's statutory duties as an 'enforcing authority' under the Act, detailing out priorities for 16/17, based on the National Code, and our available resource.
2. In the last year, we had continued to redesign the manner in which we deliver the Council's health and safety regulatory functions, to meet the Government's objective of reducing the health and safety burden on business. This approach was specified in the National Code, which local authorities must comply with.
3. The plan was written to meet all the requirements of the HSE National Local Authority Enforcement Code in terms of its content and format.

## **59/16      Approval of the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 Statement of Principles**

The Council Cabinet considered a report on Approval of the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 Statement of Principles.

A new regulatory duty came into force on 1 October 2015 requiring certain private sector landlords to provide smoke alarms in private rented property. The duty extended to provision of carbon monoxide alarms where solid fuel appliances were present.

A breach of the above requirements required enforcement action by the Council which would be undertaken by the Housing Standards Team.

Where a landlord failed to comply with a remedial notice served by the Council under these regulations the Council must undertake the works in default and may require the landlord to pay a penalty charge for non-compliance.

As required by the regulations, a statement of principles to determine the amount of penalty charge was to be published on the Council website.

The Corporate Scrutiny and Governance Board supported the proposals and recommended that an information pack or more broad communications for private landlords and tenants be produced and delivered to key wards and groups around the city.

## **Options Considered**

Not applicable.

## **Decision**

1. To approve the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 Statement of Principles attached at Appendix 2 of the report and the penalty charge structure contained therein.
2. To accept the recommendation of the Corporate Scrutiny and Governance Board that an information pack or more broad communications for private landlords and tenants be produced and delivered to key wards and groups around the city.

## **Reasons**

1. Regulation 8(1) states that where a local authority is satisfied that a landlord on whom it has served a remedial notice has failed to comply with that notice the authority may require the landlord to pay a penalty charge of such amount as the authority may determine.
2. The purpose of this penalty charge was to:-
  - Change the behaviour of the landlord;
  - Eliminate any financial gain or benefit from non-compliance with the legislation;
  - Be proportionate to the nature of the breach of the legislation and the potential harmful outcomes for the tenants; and
  - Aim to deter future non-compliance.
3. Regulation 13 requires a local housing authority to prepare and publish a statement of principles which it proposes to follow in determining the amount of a penalty charge. The authority may revise its statement of principles and, where it does so, it must publish the revised statement. In determining the amount of a penalty charge, it must have regard to the statement of principles which was most recently prepared and published at the time when the breach in question occurred.

## **60/16 Primary School Places – Additional Capacity**

The Council Cabinet considered a report on Primary School Places – Additional Capacity.

Derby City Council receives Capital Basic Need (School Places) funding each year from the Department for Education (DFE). This funding is then allocated for school place planning purposes to ensure that the Council meets its statutory duty to provide sufficient school places.

### **Primary School Places**

The Council closely monitors pupil numbers and trends. In order to accommodate growing primary pupil numbers, a Primary School Expansion Programme was

implemented in September 2014 and September 2015. Following the primary school expansion programme, it was anticipated that there would be sufficient capacity across the City as a whole to deal with primary growth over future years. There were, however, specific areas of the City where pressures on places continued to increase. Whilst schools were able to accommodate September in-takes, movement into these areas continues throughout the year.

### **The Bemrose School (Primary)**

In order to ensure there are sufficient primary school places due to increasing pupil numbers, capital funding was required to provide additional classrooms at The Bemrose School. The proposal was to increase the size of The Bemrose School (primary phase) from 315 places to 420 places from September 2017, and provide an additional 105 places, with a budget cost of £1.3m. Initial discussions had taken place with The Bemrose School and agreement in principle given to this expansion proposal. Pupil projections were regularly reviewed and updated to ensure that any specific issues within particular areas of the City, or within particular cohorts, were identified and considered at an early stage. Primary pupil numbers and projections would continue to be very closely monitored.

### **Secondary School Places**

In relation to secondary school place planning, following growth in pupil numbers in the primary sector, proposals were being developed to provide additional secondary school capacity, as reported to Council Cabinet on 16 March 2016. This was to ensure that there were sufficient places available in readiness for the higher primary year groups to progress through to secondary schools. Careful consideration was being given to the provision of future secondary school places and further proposals would be developed working in close partnership with schools.

### **Manor-Kingsway Housing Development – Primary Places**

The Council had also secured the first phase of S106 funding for primary school places from the Manor-Kingsway housing development. This first phase of funding is £353,732. The primary school contribution for the rest of the site was due once the developer had built 100 properties on phase 2 of the development. The remaining funding would be calculated based on surplus school places available at the time of assessment and the mixture of houses and apartments for future phases. It was anticipated that the total S106 contribution could be around £1.8m to £2m.

The Manor-Kingsway development was within the Normal Area (school catchment area) of Brackensdale Infant and Brackensdale Junior Schools. Planning permission had been granted for 700 properties and the proposed expansions at Brackensdale Infant School and Brackensdale Junior School were required in order to meet anticipated demand from the development. The proposal was to now start the detailed design and planning application processes for the additional accommodation required at the two schools in order to provide an additional 105 places. Based on the indicative programme for the housing development, it was anticipated that the additional places at Brackensdale Infant and Brackensdale Junior would be required from September 2018 onwards. Both schools supported this expansion proposal.

The report sought approval for the Schools Capital Programme for school expansion projects at The Bemrose School (primary phase), and Brackensdale Infant and Brackensdale Junior Schools. (See Appendix 2 of the report for further information).

The Corporate Scrutiny and Governance Board recommended that work be carried out with The Bemrose School and Brackensdale Infant and Junior Schools to ensure the provision of safe walking routes to these schools from the Manor Kingsway housing development.

### **Options Considered**

Very careful consideration had been given to options for accommodating pupil growth. The proposals within the report sought to target pupil places to areas of increasing demand.

### **Decision**

1. To approve the Schools Capital Programme schemes for school expansion projects at The Bemrose School (primary phase), and Brackensdale Infant and Brackensdale Junior Schools.
2. To approve scheme commencement and amendment to the approved capital programme with proposed scheme allocations and the addition of the actual funding allocations confirmed by the DfE.
3. To accept the recommendation from the Corporate Scrutiny and Governance Board that work be carried out with The Bemrose School and Brackensdale Infant and Junior Schools to ensure the provision of safe walking routes to these schools from the Manor Kingsway housing development.

### **Reason**

1. The Council has a legal duty to ensure sufficient school places for those pupils residing within its administrative boundary. Pupil numbers and projections were closely monitored and proposals developed as necessary to ensure sufficient school places.
2. In accordance with Financial Procedure Rules, amendments to the Council's capital programme were required to be reported to Council Cabinet.

## **61/16      Employ Local Contract Acceptance**

The Council Cabinet considered a report on Employ Local Contract Acceptance. On 5 August the Council submitted a bid for the ESF Opt-in Programme – “Employ Local”. The Employ Local Programme aimed to create opportunities and match people who were unemployed to access jobs, apprenticeships and graduate jobs. The Council had been told that decisions on the bids were to be expected on 19 September 2016 with delivery to commence on 1 October 2016. This seemed an extremely challenging timescale and it would not be surprising if these dates slipped.

The Employ Local programme would be delivered across Derby and Derbyshire (D2). The Council was the Lead Applicant for the bid and would be working in partnership with Derbyshire County Council as the main delivery partner. Other partners in this bid include DWP and the Social Inclusion Consortium (including Community Action Derby). As Lead Organisation and Accountable Body, the Council would be responsible for the delivery and compliant management of the Employ Local programme across the D2 area. There were a number of potential risks the Council would need to consider when entering into the Employ Local Contract with the Skills Funding Agency these were detailed in the report in Appendix 2 of the report.

The Employ Local initial bid value was £1,781,720 of which £498,960 was incentives to employers and the learners. The activities would be delivered between 1 October 2016 (subject to contract) and March 2018. The lifetime output targets for the programme were for 993 learners to be supported across D2, with 50% progressing to paid employment and 35% of learners taking up apprenticeships and traineeships. Any slippage due to delays in the appraisal and approval of winning bids would place further risk on delivery as the output targets would not be reduced and end date of the programme was very unlikely to be extended.

### **Options Considered**

Consideration was given to the most appropriate Lead Organisation for the Employ Local programme – Derbyshire County Council or the Council. As well as Employ Local, D2N1 Youth Engagement Opt-in has also been released and the Council had been working closely with the County Council to submit a bid to deliver the D2 element of this programme – this was submitted on 8 August 2016. It was agreed that each Local Authority would take the lead on one ESF Opt-in Programme and given the Council's existing well established relationships with employers, Employ Local was the appropriate programme for the Council to lead on. The County were delivering a successful talent match programme targeting NEETs and their expertise was more relevant to leading on the D2 Youth Engagement programme.

### **Decision**

1. To confirm the Council is willing to undertake the Accountable Body functions for Employ Local, if the bid is successful.
2. To delegate to the Strategic Director of Communities and Place, Strategic Director of People Services and the Director of Finance, following consultation with the Cabinet Member for Jobs and Fair Employment the acceptance of the Employ Local Contract.
3. To note that the programme placed high financial risks on the Council as an Accountable body. This was due to the programme being delivered in 18 months, rather than the 3 year programme it was initially and also the payment would be by results. The performance had to be over 90% for break-even and under performance would be penalised with a reduction in grant payments, despite expenditure being incurred. The mitigation of these risks would be re-evaluated before any final acceptance of the contract.



## Reasons

1. If successful the Council would be required to accept all the contractual obligations of being the Accountable Body for a delivery programme across the county that included some challenging targets. This was a payment by results contract so any under-performance would be penalised with reduced grant payments no matter the expenditure that had been incurred. Delivery of this programme beyond the city boundary would fall to the County Council. Legal Services would be engaged to draft a Partnership Agreement which would deal with:
  - responsibilities of all parties;
  - arrangements for the secondment of staff; and
  - risk apportionment and governance arrangements.
2. If successful the Council would need to be in a position to accept the Employ Local Contract Terms and Conditions within a short timescale. Therefore delegated approval was sought to enable the final consideration of the contract terms and conditions and sign off.

## Budget and Policy Framework

### 62/16 Results of a Consultation on Whether to Introduce a Policy on Parental Contributions Towards the Cost of Care Placements

The Council Cabinet considered a report on Results of a Consultation on Whether to introduce a Policy on Parental Contributions Towards the Cost of Care Placements. The Children Act 1989 permits Local Authorities to have parental contributions policies to reduce the cost to the public purse of caring for certain categories of looked after children. In November 2015, Council Cabinet agreed to go out to consultation on a draft Parental Contributions Policy for Derby. The report contained the outcome of that consultation process, which took place between February and May 2016.

The consultation process took the form of writing to all parents with children in care in January 2016. The letters contained a copy of the proposed policy. Parents were given the option to feedback their views by telephone, via the internet and at a public consultation meeting on 31 March 2016. The process accorded with our corporate consultation policy i.e. 90 days/12 weeks.

The number of responses from parents was very low. There were five telephone responses, four internet responses and no one attended the public consultation meeting.

The majority of people who responded to the consultation did not believe they should be expected to contribute to the cost of care, although in reality the number of people who would be eligible was very small because most parents were either in receipt of benefits or on low incomes.

## **Decision**

To note the results of the public consultation exercise and agree to implement the parental contribution to the cost of care placements policy.

## **Contract and Financial Procedure Matters**

### **63/16 Contract and Financial Procedure Matters**

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

- Tender and creation of framework agreements
- Changes to the annual Minimum Revenue Provision (MRP) Statement of 2016/17
- Bid for Funding
- Acceptance of Funding
- Retender of Contract
- Changes to the current 2016/17 Capital programme
- Authorisation of a loan for £15,000 to St Peter's Quarter Derby Limited
- Submit an efficiency plan – four year settlement
- Submit a funding bid

The Corporate Scrutiny and Governance Board recommended that Council Cabinet be cautious about the submission of future bids for funding and the commitment to introduce further revenue budget pressures through the requirement of match funding and that the Corporate Scrutiny and Governance Board receives an update report on changes to the Minimum Revenue Provision (MRP) Statement of 2016/17 and related costs and savings to a future meeting of the Board.

## **Decision**

1. To approve the tender and subsequent creation of two framework agreements for Best Interest Assessors and Doctors at an annual cost of circa £165,000 a year, as detailed in section 4 of the report.
2. To recommend Council to approve the revised annual Minimum Revenue Provision (MRP) Statement for 2016/17, as detailed in section 5 and Appendix 2 of the report.
3. To approve a bid to the Department for Transport for Access Grant and to delegate approval to the Strategic Director of Communities and Place, following consultation with the Director of Finance to accept any grant offer, subject to acceptable grant conditions, as detailed in section 6 of the report.

4. To approve the application to Nottingham City Council for £343,000 of Go Ultra Low Funding and to delegate approval to accept the funding to the Strategic Director of Communities and Place, following consultation with the Director of Finance, as detailed in section 7 of the report.
5. To approve the application to Joint Air Quality Unit (JAQU) for funding of £329,810 for the initial phases of the scoping study requirements for Clean Air Zones (CAZ) and to delegate approval to accept the funding to the Strategic Director of Communities and Place, following consultation with the Director of Finance, as detailed in section 8 of the report.
6. To approve the combined retender for Domiciliary Care in Extra Care schemes including caps for increases in charges levied to residents for emergency care and maximum rates payable by the council for Core Care, as detailed in section 9 of the report.
7. To approve changes, including additions to the capital programme, in section 10 and Appendices 3 and 4 of the report.
8. To approve a loan of £15,000 to St Peter's Quarter Derby Limited from the Budget Risk Reserve.
9. To recommend to Council the submission of an efficiency plan to DCLG in order to secure the four-year funding guarantee, and delegate the details of the submission to the Director of Finance following consultation with the Chief Executive and the Leader.
10. To approve the submission of the Full Application for up to £5.3m of ERDF funding for the Our City Our River MUNIO Project.
11. To delegate to the Strategic Director of Communities and Place and the Director of Finance the agreement of the final ERDF Full Application, following consultation with the Cabinet Member for Communities and City Centre Regeneration.
12. To delegate to the Strategic Director of Communities and Place and the Director of Finance, following consultation with the Cabinet Member for Communities and City Centre Regeneration to accept the ERDF funding, should the Full Application be successful.
13. To accept the recommendation of the Corporate Scrutiny and Governance Board that Council Cabinet be cautious about the submission of future bids for funding and the commitment to introduce further revenue budget pressures through the requirement of match funding and that the Corporate Scrutiny and Governance Board receives an update report on changes to the Minimum Revenue Provision (MRP) Statement of 2016/17 and related costs and savings to a future meeting of the Board.

## Performance

## 64/16 Performance Monitoring 2016/17 – Quarter One Results

The Council Cabinet considered a report on Performance Monitoring 2016/17 – Quarter One Results.

The monitoring report included highlights from key performance measures included in the departmental business plans and which reflected the refreshed 2016-19 Council Plan. These priority measures formed the Council Scorecard for 2016/17 and reflected key performance / budget risks that Chief Officers and Members needed to be reviewing outcomes against on a regular basis.

At the end of quarter one (up to 30 June 2016), 71% of performance measures were forecast to meet or exceed their year-end target. Results were assessed using traffic light criteria, according to their performance against improvement targets. A dashboard which summarised performance for the Council Scorecard was shown in Appendix 2 of the report.

Achievements noted at quarter one included:

- The percentage of 16-19 year olds not in education, training or employment (NEET) was at 4.6%, maintaining below 5% was a key aim of the NEET Strategy.
- The percentage of maintained schools inspected that were judged to be 'good' or 'outstanding' had increased to 81%.
- The volume of online transactions were ahead of target at quarter one.
- 100% of social care clients continued to receive self-directed support through direct payments and individual budgets.

Accountable officers had provided commentary to put performance into context and identify actions that they were taking to address poor performance, Appendix 3 of the report.

### **Decision**

1. To note the 2016/17 quarter one performance results.
2. To give particular attention to the indicators highlighted in the Improvement Report at Appendix 3 of the report.
3. To note that Corporate Scrutiny and Governance Board review performance on a regular basis and may select indicators for Performance Surgery on the basis of this report.
4. To note amendments to the Council Scorecard in paragraphs 4.10 and 4.11 of the report.

**MINUTES END**