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Compliance with Contract and Financial Procedure Rules

Purpose

- 1.1
 - Public Health – to approve acceptance of funding for Derby City to implement the Individual Placement and Support (IPS) employment support in community drug and alcohol treatment services programme
 - Public Health - to delegate authority to enter into all necessary contracts and agreements associated with this additional ring-fenced funding
 - Contract Waiver - extension of a contract with Water Plus Group Ltd to continue their provision of water, wastewater and ancillary services to the Council's property portfolio
 - Smartparc capital grant – to increase the total grant award to up to £17.31m with future grant award agreements to be entered into with SmartParc SEGRO Spondon Ltd
 - Capital programme - addition of £0.148m to the capital programme for the City Living Fund and the use of the fund to award grants to Inventure Properties Ltd and Sadler Gate Co Ltd.

Recommendation

- 2.1 To approve Public Health acceptance of additional ring-fenced substance misuse funding for Derby City to implement the Individual Placement and Support (IPS) employment support in community drug and alcohol treatment services programme as outlined in section 4.1.
- 2.2 To approve delegated authority to the Director of Public Health in consultation with the Strategic Director of Corporate Resources and the Strategic Director of People Services, and the Cabinet Member for Adults Health and Housing to enter into all necessary contracts and agreements associated with this additional Public Health ring-fenced substance misuse funding as outlined in section 4.1.
- 2.3 To approve the contract waiver for a one-year extension on the existing contract with Water Plus Group Ltd, to continue their provision of water, wastewater and ancillary services to the Council's property portfolio as outlined in section 4.2.
- 2.4 To approve an increase to the Smartparc total capital grant award(s) from up to £17.25m to a value of up to £17.31m, with the balance of future grant award agreement(s) of up to £5.38m to be entered into with SmartParc SEGRO Spondon Limited as outlined in section 4.3.
- 2.5 To approve increasing the existing delegated approval for Smartparc capital grant award(s) given under delegation from up to £17.07m to a value of up to £17.13m as outlined in section 4.3.

- 2.6 To approve the addition of the City Living Fund of £0.148m to the 2022/23 capital programme as outlined in section 4.4.
- 2.7 To approve the use of the City Living Fund capital receipts from the previously decommissioned City Living Scheme to fund the award of grants of £0.125m to Inventure Properties Ltd and £0.023m to the Sadler gate Co Ltd as outlined in section 4.4.

Reason

- 3.1 To comply with Financial Procedure Rules.

Supporting information

- 4.1 **Acceptance of Funding Public Health – IPS and associated delegated approvals**
 Dame Carol Black's Independent review of drugs (2021) highlighted that there is a considerable amount of evidence that employment can improve drug treatment outcomes, reduce the frequency and severity of relapse, reduce re-presentations to services and support people to sustain recovery. In the 2021 Drug Strategy from Harm to Hope, the Government committed to the movement of people from treatment to employment via the full national roll out of the IPS Programme by 2024/25.
- 4.1.1 The Office for Health Improvement and Disparities (OHID) have advised Derby City Council that they are eligible for funding for the delivery of IPS employment support in community drug and alcohol treatment services from 2022/23. This funding is from the Department of Work and Pensions through the support of the OHID via a yearly Section 31 grant which will be extended by a minimum of three years (to March 2025).
- 4.1.2 An indicative allocation of up to £0.500m has been allocated over three years. This indicative allocation has not yet been confirmed and the detail has been shared to aid planning but are still subject to Departmental and HM Treasury approvals hence are embargoed and should not be put into the public domain.
- 4.1.3 The implementation of IPS employment support will be monitored by OHID for fidelity against the programme and will be reportable via the National Drug Treatment Monitoring System. OHID will also monitor local area spend against the IPS Grant and will claw back inappropriately used/diverted funding.
- 4.1.4 It is recommended to approve the acceptance of additional ring-fenced substance misuse funding for Derby City to implement the Individual Placement and Support (IPS) employment support in community drug and alcohol treatment services programme.
- 4.1.5 It is recommended to approve delegated authority to the Director of Public Health in consultation with the Strategic Director of Corporate Resources and the Strategic Director of People Services, and the Cabinet Member for Adults Health and Housing to enter into all necessary contracts and agreements associated with this additional PH ring-fenced substance misuse funding.
- 4.2 **Water Group Plus contract**
 In April 2017 water industry deregulation provided the opportunity for commercial customers in England to go out to the wider market for their water and waste provision. Prior to deregulation, the Council was allocated a single water utility supplier Water Plus Group Ltd (a subsidiary of Severn Trent Water).

- 4.2.1 The contract concerns the provision of water, wastewater and ancillary services which consists of the supply of water and sewerage services to Derby City Council's property portfolio of over 350 properties.
- 4.2.2 In order to take advantage of deregulation the Council has to provide information on the location of (and readings from) 150+ water meters across the city which, after a number of requests Water Plus have not provided. The current provider is unable to be changed until the water bill validation data gathering exercise has been completed.
- 4.2.3 The Council appointed a water bill validation specialist contractor – Cadantis Associates in February 2021 for a two-year period to gather the data required to go out to the market to retender for this contract. However, the water bill validation work will not be completed until February 2023, and therefore it will not be possible to go out to the market for a new provider until this data gathering exercise is complete and to inform the tender process.
- 4.2.4 Putting this waiver in place provides compliance with the Public Contract Regulations 2015 until a new water and waste contract is able to be procured.
- 4.2.5 The procurement process to take this contract out to the full market will begin a minimum of six months prior to the end of this waiver, allowing ample time to follow Public Contract Regulations 2015 compliant procedures.
- 4.2.6 It is recommended to approve the contract waiver for a one-year extension on the existing contract with Water Plus Group Ltd, to continue their provision of water, wastewater and ancillary services to the Council's property portfolio.
- 4.3 **Smartparc Capital Grants**
On 10 March 2021 Cabinet approved the award of grant agreement(s) of up to £17.25m to SmartParc to be funded from the Getting Building Fund and council resources. Of this Cabinet delegated authority to the Strategic Director of Corporate Resources following consultation with the Strategic Director of Communities and Place, Cabinet Member for Regeneration Planning and Transport and the Cabinet Member for Finance and Procurement to enter into the Grant agreement(s) of up to £17.07m under delegation, subject to the necessary Project Gateway approvals. On 9 June 2021 authority was sought to change the award of the grant to SmartParc Spondon Limited in line with the proposed delivery model.
- 4.3.1 In September 2021, SmartParc publicly announced their investment partner as SEGRO who they are partnering with to deliver the SmartParc food innovation park at Spondon. SmartParc SEGRO Spondon Limited is a special purchase vehicle, whose shares are currently held by SEGRO. SEGRO is a UK Real Estate Investment Trust (REIT), and a leading owner, asset manager and developer of modern warehousing and light industrial property.

- 4.3.2 The original approval enabled total capital grant funding awards of up to £17.25m as included in the approved Smartparc capital budget. It is now proposed to increase this to a value of up to £17.31m to be funded from capital receipts within the existing Smartparc approved capital budget, previously earmarked for capital fees for which there is an underspend. This proposal does not result in any amendments to the capital programme. £11.93m of these capital grants have already been awarded to SmartParc, leaving a balance of up to £5.38m yet to award. To align the award of future funding of up to £5.38m to the scheme, approval is sought to award future grants and enter into future grant agreement(s) with SmartParc SEGRO Spondon Limited.
- 4.3.4 Of the revised total of up to £17.31m, approval is also sought to increase the existing delegated authority for Smartparc capital grant award(s) to be given under delegation to a total value of up to £17.130m.
- 4.3.5 SmartParc SEGRO Spondon Limited will be responsible for delivering the future outputs set out in any grant agreement, appropriate guarantees will be sought to ensure that the risk is appropriately mitigated for the delivery of these outputs.
- 4.3.6 It is recommended to approve an increase to the Smartparc total capital grant award(s) from up to £17.25m to a value of up to £17.31m, with the balance of future grant award agreement(s) of up to £5.38m to be entered into with SmartParc SEGRO Spondon Limited.
- 4.3.7 It is recommended to approve increasing the existing delegated approval for Smartparc capital grant award(s) given under delegation from up to £17.07m (see para 4.3) to a value of up to £17.13m.
- 4.4 **City Living Fund**
The City Living fund was removed from the capital programme and decommissioned due to lack of enquiries in a review of the whole capital programme in 2021/22. This left a £0.197m balance of recycled City Living capital receipts from previous City Living schemes, £0.148m of which will be taken up by the 2 applications outlined in this report, the remaining £0.049m is being considered and will be subject to future appropriate approvals.
- 4.4.1 **Inventure Properties Ltd, 64-70 St Peters Street**
The Council awarded Inventure Properties Ltd an Additional Restrictions Grant (ARG) of £0.100m to redevelop 64-70 St Peters Street for commercial space and up to 21 new housing units by Summer 2023. Conditions of the grant specified that the ARG money had to be spent within the 2021/22 financial year, which was ultimately not possible because the planning application took longer than anticipated to determine.
- 4.4.2 A solution to this was identified using the City Living fund for the grant. This is now an increased grant of £0.125m as additional £0.025m was requested, due to increases in material prices, identified through the applicant's development appraisal, which the Council have verified. The grant will fund capital works and capital items, such as scaffolding, brickwork, materials, furniture and fittings.

4.4.3 **Sadler gate Co Ltd – 43 Sadler Gate**

The Council awarded the Sadler Gate Co (Derby Ltd) £0.030m ARG grant for initial feasibility work to redevelop 43 Sadler Gate for commercial space and a house in multiple occupation. A further grant of £0.023m has been requested to allow the applicant to bring forward redundant space at the rear of the property, for up to 4 new housing units. The grant will fund capital works and capital items, such as scaffolding, brickwork, materials, furniture and fittings.

4.4.4 ARG could not fund either of these projects, as it was time limited to be spent by March 2022. Both of these grants can be spent on capital items only and will only be paid on completion of housing units. This will be incorporated into the grant conditions. The other main grant condition will be that the grant will only be paid on completion of housing units. There will be clawback provisions in the grant agreement, if the grant has not been paid towards eligible expenditure, or housing units have not been delivered.

4.4.5 It is recommended to approve the addition of the City Living Fund of £0.148m to the 2022/23 capital programme.

4.4.6 It is recommended to approve the use of the City Living Fund capital receipts from the previously decommissioned City Living Scheme to fund the award of grants of £0.125m to Inventure Properties Ltd and £0.023m to the Sadler gate Co Ltd.

Public/stakeholder engagement

5.1 **Acceptance of Funding Public Health**

Public Health are engaging with key stakeholders as the Drug Strategy emphasises the need for multi-agency leadership to define local priorities. Local delivery partners will be held to account through a local outcomes framework with local senior accountable owners.

5.1.1 Public Health are currently contract managing several OHID Section 31 Substance Misuse related grants and contract variations issued against these.

5.2 **SmartParc**

There is ongoing stakeholder engagement through the planning application process.

5.3 **City Living Fund**

In relation to the grant applications themselves, consultation will have been undertaken by the applicants, as a result of the planning applications that they submitted for these developments.

Other options

6.1 **Acceptance of Funding Public Health**

Public Health – not to accept this funding, not a viable option.

6.2 **Water Group Plus Contract**

If the waiver is not approved, there is a risk the Council will not be compliant with Public Contract Relations and will breach statutory duties under the Workplace Health, Safety and Welfare Regulations 1992.

6.3 **City Living Fund**

Do Nothing – this is not an option, as without the grant support, up to 25 new housing units would be lost.

Financial and value for money issues

7.1 Acceptance of Funding Public Health

As outlined in the report.

7.2 Water Group Plus Contract

Revenue budget expenditure is estimated at £0.032m a month in order to secure the service for a further 13 months totalling the waiver to £0.416m. There is existing budget allocation available for this contract.

7.3 City Living Fund

Funding these 2 individual schemes represents good value for money at around £0.006m for each new home created for each scheme, compared to an intended benchmark of £0.010m. It will be increasingly important to create new homes in the city centre, making better use of existing buildings, in order to meet our increasing housing targets.

7.3.1 The scheme at 64-70 St Peters Street is the largest scheme of its kind in the city centre, repurposing existing space to create new commercial space with 21 new flats above. This will breathe new life into that area and bring a largely redundant building back into use.

7.3.2 Similarly, the scheme at 43/43a Sadler Gate will bring a redundant building back into use and create 4 new apartments, again adding vibrancy to an important part of the city.

7.3.3 These projects came through the Additional Restrictions Grant process and the Strategic Housing Division has been working closely with the building owners to bring these projects forward.

Legal implications

8.1 Acceptance of Funding Public Health

Legal Service's input will be sought to review any terms and conditions.

8.2 SmartParc

The Council has appointed Browne Jacobson LLP to provide legal advice in relation to future funding transaction and Browne Jacobson are advising on the terms of the grant agreement and associated guarantees.

8.3 City Living Fund

As these grants will be paid to businesses, the council will need to ensure that they are Subsidy Control compliant, and the applicants will be asked to complete Subsidy Control declarations.

Climate implications

9.1 SmartParc

Smartparc are currently formulating their sustainability strategy for the Park. The proposal focuses upon green energy through the adoption of low carbon energy generation, working with occupiers to reduce food miles through collaboration and reducing waste. SmartParc are working to develop a roadmap to achieve net zero by 2030.

9.2 City Living Fund

The Council will work with both applications to aim to ensure that these projects are zero carbon ready and meet Future Homes Standards.

Other significant implications

- 10.1 **Equalities** - All Equality Impact Assessments if required will be completed as required and advice will be taken as required. Many of these initiatives positively affect people with protected characteristics under the Equality Act.

This report has been approved by the following people:

Legal	Olu Idowu, Head of Legal Services
Finance	Toni Nash, Head of Finance
Service Director(s):	Verna Bayliss, Director of Planning, Transport and Engineering
Report sponsor	Alison Parkin, Director of Financial Services
Other(s)	Anne Webster, Head of Equalities Liz Moore, head of HR

Background papers: n/a
List of appendices: n/a