

Time began 6.00pm  
Time ended 6.45pm

**COUNCIL CABINET  
18 DECEMBER 2007**

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

In attendance Councillor Jones

This record of decisions was published on 20 December 2007. 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.

**133/07 Apologies for Absence**

Apologies for absence were received from Councillors Hickson and Nath.

**134/07 Late Items Introduced by the Chair**

There were no items.

**135/07 Identification of Urgent Items to which Call-In  
will not apply**

There were no items.

**136/07 Declarations of Interest**

There were no declarations of interest.

**137/07 Minutes of the previous meetings held on  
27 November 2007**

The minutes of the meetings held on 27 November 2007 were confirmed as a correct record and signed by the Chair subject to the addition of Councillor Marshall in attendance.

## Matters Referred

### 138/07      Response of the Community Commission to a Petition from Derby New Theatre Association on Community Theatre

The Council Cabinet considered a report on the Response of the Community Commission to a Petition from Derby New Theatre Association on Community Theatre.

#### **Decision**

1. To accept the Commission's decision not to support the request for greater reductions in hire charges at the Assembly Rooms and the Guild Hall than currently being offered by the Assembly Rooms Manager.
2. To defer recommendations 1.2 and 1.3 until the position on the Playhouse becomes clearer.
3. To support the Derby New Theatre Association to access Capital funding provided no capital funding is requested from the Council and to bring the Hippodrome Theatre back into use on condition that future running of the Hippodrome should be cost neutral to the Council Tax payers of the city.

### 139/07      Call-in of Executive Key Decision – Proposed Closure of Bramblebrook House

The Council Cabinet considered the minutes from the Adult Services and Health Commission meeting held on 6 December 2007. The Commission had asked Council Cabinet to reconsider the decision made at the meeting of Council Cabinet held on 27 November 2007 in relation to the Consultation on the Closure of Bramblebrook House Residential Home for Older People. It was accepted that a detailed report covering all the issues that have been raised needed to be prepared and considered.

#### **Decision**

To defer consideration of the Call-in until the next meeting of the Council Cabinet.

## 140/07 Resolution from Council on Congestion Charging

The Council Cabinet considered a motion from Council held on 21 November 2007 on Congestion Charging, requesting Council Cabinet to resist and political pressure from Government to impose a Congestion Charge unless all the following conditions were met.

- that city residents should not be subject to a Congestion charge to drive on roads within the city boundary
- that work to ensure that a charging scheme will not be introduced in the City of Derby unless it is part of a wider scheme that provides first class public transport provision including a comprehensive transformation of park and ride facilities
- that no charges are introduced until a first class public transport network and high quality park and ride facilities are in place on all the city's arterial roads

### **Decision**

To receive the motion from Council on Congestion Charging.

## 141/07 Resolution from Council on Adult Social Services Budget

The Council Cabinet considered a motion from Council held on 21 November 2007 on the Adult Social Services Budget, requesting Council Cabinet to explore income generation opportunities within Adult Services for the 2008/09 budget to be able to deliver services at the current level and do not involve the removal of services from the moderate band.

### **Decision**

To accept the motion from Council on the Adult Social Services Budget

## Key Decisions

## 142/07 Building Schools for the Future – Strategy for Change Part 1

The Council Cabinet considered a report on Building Schools for the Future – Strategy for Change Part 1. Building Schools for the Future (BSF) was a huge opportunity to transform secondary education with significant capital investment. The programme aimed to replace and renovate all secondary school buildings over the next 15 years. Following government approval of our Readiness to Deliver assessment, Derby was formally included in this programme from October 2007. Strategy for Change (SfC) Part 1 was the

first formal milestone in the development phase of BSF. It showed the scope of Derby's BSF transformation plan and was the high level, 'what was to be done' component of the SfC. The requirement was to submit this document within eight weeks from formally joining the programme in October. Derby's SfC Part 1 needed to be approved by Partnerships for Schools (PfS) and the Department for Children, Schools and Families (DCSF) for the project to proceed to the next stage.

### **Options Considered**

Not submitting SfC Part 1 would jeopardise Derby's BSF programme in transforming secondary education in the city.

### **Decision**

1. To approve Derby's BSF Strategy for Change Part 1 submission to Partnerships for Schools.
2. To agree any changes in the detail of the SfC 1 can be delegated to the Corporate Director for Children and Young People, in consultation with the Cabinet Member for Children and Young People.

### **Reasons**

1. The BSF programme represented substantial levels of investment, which was a once- in a- generation opportunity to transform secondary education in Derby.
2. If the SfC Part 1 was not submitted on time, Derby's Building Schools for the Future programme would be at risk of significant delay.

## **143/07 Disinfestation Centre and Adjoining Freehold Interest**

The Council Cabinet considered a report on Disinfestation Centre and Adjoining Freehold Interest. Relocation of our Disinfestation Centre could be arranged to coincide with the availability of the adjoining contractor's depot, allowing both owners to achieve an improved joint receipt.

### **Options Considered**

Any other option would not take advantage of the current circumstances.

### **Decision**

To approve the recommendations included within the confidential report.

## **Reasons**

To achieve a combined site which could be redeveloped to its best advantage and thereby achieve an improved joint receipt for our land interests.

## **144/07 Longbridge Weir Hydro Electric Power Station**

The Council Cabinet considered a report on Longbridge Weir Hydro Electric Power Station. A detailed study had been carried out by specialist consultants and a report prepared which showed that the building of a hydro-electric power station adjacent to Longbridge Weir was both feasible and would generate sufficient revenue income to be self funding using unsupported borrowing. Building and operating this power station would save as much as 1000 tonnes of CO<sub>2</sub> annually compared with current supplies. The Council's 25% emissions reduction target equated to a saving of approximately 6000 tonnes of CO<sub>2</sub> resulting from Council electricity and gas consumption, excluding street lighting. So this one project could achieve as much as one sixth of the necessary reduction.

## **Options Considered**

1. Investigations were under way to look at the feasibility of a similar, albeit smaller, scheme at Darley Abbey weir. Other weirs would be investigated in due course and reports brought to Cabinet as appropriate.
2. The possibility of building the Longbridge scheme on the opposite bank had been considered but discounted because the civil engineering costs were felt to be prohibitive compared to those for the South Bank of the river.

## **Decision**

1. To recommend Council to approve unsupported borrowing of £1.5 million to fund the design, procurement and construction costs subject to the project achieving planning permission and the various Environment Agency permissions.
2. To recommend Council to approve the associated changes to the Council's prudential indicators to reflect the necessary revisions to the capital programme and unsupported borrowing, subject to further detailed confirmation when these indicators were next updated.
3. To authorise the Corporate Director of Resources to establish appropriate internal controllable recharges between budgets to ensure that corporate costs were directly offset against associated financial savings and income.

4. To approve the waiving of contract procedure rule C15, Requirement to Obtain Quotes or Tenders, and appoint specialist consultant Derwent Hydro for the technical aspects of the project.
5. To establish the hydro-electric power station as a venue for the proposed Time Trail.

### **Reasons**

1. Building this power station would be a significant statement to the people of Derby and others that the Council means business on tackling climate change.
2. As much as 1000 tonnes of CO2 could be saved every year. This represented a sizeable proportion of the overall target reduction for electricity and gas emissions.
3. The income generated from sale of the renewables obligation certificates (ROC's), the sale of the surplus power and the value of the Council House power demand offset by directly feeding the station output into the Council House would support the borrowing. The scheme long term viability was dependent upon the ongoing availability of ROC's or their equivalent.
4. As the unsupported borrowing was not in the capital programme, the constitution required that the decision be made by full Council.
5. There were few consultants capable of carrying out the technical hydro engineering design aspects of such an installation. Derwent Hydro had a track record in such schemes and had been involved from the start of this project. The design fee, at approximately £20 000, was considered to represent good value for money.
6. It was intended that the hydro power station becomes a tourist and educational venue.

## **145/07 Local Development Framework – Annual Monitoring Report**

The Council Cabinet considered a report on Local Development Framework – Annual Monitoring Report. The Council was required, under the Planning and Compulsory Purchase Act 2004, to submit an Annual Monitoring Report (AMR) to the Secretary of State by the end of December each year. Derby's first AMR was submitted in 2005 and Cabinet was now being asked to approve the third for submission. The full document as proposed for submission could be seen on CMIS. The AMR sets out important information on how planning policies were being implemented, for instance housing and employment land targets. It noted that in 2006/07 there was an increase of 1,052 houses in the City, considerably higher than the recent past. Of this

total, 161 affordable houses were completed. Housing land supply remained very healthy and performance on the use of brownfield land continued to improve. Most housing development took place on sites allocated in the Local Plan or on recycled industrial or commercial land, with only a relatively small proportion (12%) provided through the redevelopment of houses with gardens. The AMR had not identified a need to review specific policies, although there would be a comprehensive review of key spatial planning policy through the preparation of the Core Strategy – but not of all Policies.

The AMR also set out progress in implementing the Local Development Scheme (LDS). A great deal of work had been undertaken and good progress achieved on several Supplementary Planning Documents (SPD's). The Panel Report into the draft Regional Spatial Strategy Review (RSSR) was due to be published in late November 2007. The Review had great implications for the City, especially in terms of the need for new housing. To take forward the RSS policies at the local level, the current LDS anticipated preparing a Core Strategy looking forward to 2026. It also proposed a site allocations Development Plan Document (DPD) - 'Sites for More Sustainable Communities' to be prepared jointly with Amber Valley and South Derbyshire District Council's. This was because the RSS requires significant new development across the City boundaries in both districts. The AMR itself did not set out a revised programme for preparing the LDF documents, but it did give an indication of what changes would be necessary. It was intended to draw up a revised LDS which would establish the new programme and to report this to Cabinet early next year.

### **Options Considered**

The submission of the Annual Monitoring report to the Secretary of State by the end of the year was required by Regulation. No other options had therefore been considered.

### **Decision**

To authorise the submission of the Annual Monitoring Report to the Secretary of State by the end of December 2007, subject to any minor drafting amendments being delegated to the Corporate Director of Regeneration and Community.

### **Reasons**

To satisfy the legal requirement to submit an AMR.

## **146/07 City Centre Eastern Fringes Action Plan – Report on Progress and Changes to Future Programme**

The Council Cabinet considered a report on City Centre Eastern Fringes Action Plan – Report on Progress and Changes to Future Programme.

On 5 September 2006, Cabinet agreed a 'Preferred Option' for the above Plan for formal consultation. However, publication of this document was held back pending more work on the plan's evidence base, in order to ensure it would eventually be considered 'sound'. It was therefore felt that Preferred Options consultation should not proceed until a number of crucial studies had been completed. Some of this work was on-going. The recent experiences of other local authorities with the LDF system have, however, highlighted a number of other 'soundness' issues. These had given rise to concerns over whether the AAP was still the most appropriate vehicle for bringing forward the regeneration of the 'Eastern Fringes' area.

Of particular concern was the risk of preparing the AAP in advance of the Core Strategy. The Government had recently confirmed that the Planning Inspectorate was finding it very difficult to consider such plans. While some authorities had been successful, there were no guarantees that an Inspector would consider our AAP acceptable. A further area of concern was the changing aspirations of some AAP stakeholders and the lack of certainty over their long-term requirements. The AAP process was not suited to accommodating changes to proposals, particularly once the Preferred Option had been finalised.

It was important to ensure that delays in preparing the AAP, or issues over its soundness, did not hold up the regeneration of the 'Eastern Fringes'. The AAP was intended to facilitate regeneration by providing a statutory basis for compulsory purchase. It was never the intention, nor was it desirable, for the AAP process to restrict or delay otherwise acceptable proposals. In order to mitigate the risks and delays outlined above, an alternative approach was being recommended. This envisaged the Preferred Option Report being published early next year and any changes required as a result of this being reported back to Cabinet as normal. At this point, however, the preparation of the AAP would be suspended. This would still give weight to the work carried out to this point in bringing forward and assessing regeneration proposals. In particular, it would provide the template for attracting and selecting a 'preferred developer' for the Castleward Area. The 'preferred developer' would work with the Council and Derby Cityscape to bring forward appropriate proposals that were consistent with the planning framework already in place and bolstered by the Preferred Option. This approach would save the time and resources needed to prepare a formal Submission document and for its Examination by the Planning Inspectorate. If necessary, production of the AAP could be picked-up again at a later date. Appendix 2 contained a diagram illustrating the recommended course of action, compared against the normal procedures.

Counsel advice had been sought as to whether this was an appropriate course of action and whether it would have a detrimental impact on our ability to justify compulsory purchase, if required. This had confirmed that there were significant risks associated with continuing with the AAP and that to suspend it at this stage would not necessarily have a prejudicial impact on regenerating the area. As such, a formal AAP may not be necessary to carry out a CPO.



Changes to the AAP's preparation would need to be reflected in the Council's Annual Monitoring Report (AMR) (also being considered at this Cabinet) and the Local Development Scheme (LDS). A revised LDS would be considered by Cabinet next year and would have to be agreed by GOEM before it could take effect.

### **Options Considered**

A number of alternative options had been considered, including continuing with the AAP as initially intended or withdrawing the AAP prior to the publication of the Preferred Option. The recommended course of action made the most use of the work already done and minimised risks and delay.

### **Decision**

1. To agree the revised route toward regeneration of the Eastern Fringes area, as set out in para 1.12 of the report.
2. To reflect the above in the Council's Annual Monitoring Report and Local Development Scheme.

### **Reasons**

1. There were risks associated with progressing the AAP to submission at this stage, both to the 'soundness' of the plan and the impact this could have on regeneration. The alternative course of action would minimise these risks, while still making full use of the work already done. Counsel advice had been sought on this in conjunction with Derby Cityscape and other public funding partners.
2. The progress on the preparation of DPDs, revised timetables and milestones must be published in the Council's AMR and LDS documents.

## **Contract and Financial Procedure Matters**

### **147/07 Contract and Financial Procedure Matters Report**

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

- bids against the Youth Opportunities Fund and the Youth Capital Fund

- waiver of contract procedure rules to enter into a contract for the supply of services to schools from the National Association of Professional Teaching Assistants - NAPTA
- additional funding for extra works under the Learn Derwent capital schemes.
- allocation of funding from CYP capital reserves for investigative work relating to possible land contamination
- allocation of funding from the Schools' Access Initiative fund
- staffing within the Change Management Team.

## **Decision**

1. To approve bids against the Youth Opportunities Fund and the Youth Capital Fund previously suggested by the Youth Panel.
2. To approve a waiver of contract procedure rules regarding the supply of services to schools from the National Association of Professional Teaching Assistants – NAPTA.
3. To approve a total of £93,000 additional funding for extra works under the Learn Derwent capital schemes at Beaufort, Derwent and Roe Farm Primary Schools
4. To recommend to full Council the allocation of £40,000 from CYP capital reserves for school site investigation work.
5. To approve the allocation of £33,500 of Schools' Access Initiative funding to Hardwick Primary School, the Specialist Teaching and Psychology Service and Littleover Community School
6. To transfer £113,000 from the Building on Excellence budget to the Change Management and Performance Team budget within the Resources Department.
7. To approve the creation within the Change Management and Performance Team of up to two additional Change Manager posts, subject to one being funded by the East Midlands Improvement Partnership, to create a post of Transformational Change Manager to be filled by one of the existing Change Managers and to regrade the post of Project Support Officer as Project Co-ordinator.
8. To agree that the Budget Scrutiny Accountant post should be funded from 2008/09 from savings achieved from the Transformational Change programme.

## 148/07 Funding Delegation Arrangements for the work of the Climate Change Board

The Council Cabinet considered a report on Funding Delegation Arrangements for the work of the Climate Change Board. Cabinet had allocated funding from the Modernisation Fund to the Climate Change Board to support measures flowing from the Board's Climate Change Action Programme. The Board had authority to allocate £200k to individual environmental measures up to £100k each, following Board approval of the business case. The report covered provision for the delegation of spending approvals. The use of the fund (the 'Climate Change Board Fund') for any scheme over £100k would continue to require Cabinet approval. Salix financing was at present the other key opportunity to secure funding for climate change projects that the Board wish to support. The Council had a £200k recyclable 'spend to save' fund available, made up of £100k from Salix Finance and £100k matched funding from corporate reserves as previously approved by Cabinet. A requirement of Salix funding was that there was a clear documented process for approval of projects. It had been established through Cabinet that use of the Salix finance was to be managed through the Board. The scheme of delegation set out in Appendix 2 would establish an important part of the process for the approval of Salix funded projects.

### Decision

To approve the Financial Procedure Rules delegations from Council Cabinet as set out in paragraphs 10 to 16 of Appendix 2 to the report and summarised in the chart at the end of that Appendix.

## 149/07 Quad Progress Report

The Council Cabinet considered a report on Quad Progress Report. The construction work on the QUAD building had been progressing well. Some difficulties were encountered in the early stages when a number of obstructions were discovered in the sub-soil under the site. Soon the character of the building would begin to emerge as we fitted the stone cladding and the glass curtain walls. These would convert a concrete skeletal structure into a building with character and excitement.

The contractor had now forecast a delay in completion of the construction phase. In the absence of any further delays in the construction phase, the building will be fully equipped and ready to open at the end of July or early in August 2008.

A high profile series of visual art exhibitions was being planned for the first six months of the opening period. The QUAD Board has used a mixture of international ambition and a sense of local place in order to create an initial programme which would have impact across the region and beyond. The cinema offer in QUAD would be distinctive and international in flavour: It would help to transform the film offer in the city centre.

QUAD's bar and catering offer was destined to become one of the best places to meet, to talk and to be inspired in the whole of the city centre.

The QUAD Board and the City Council have worked together intensively since this project began in order to hold the project within its original budget. A number of factors, however, necessitated adjustments to the original plans, so that contingency funding could be made available to ensure that the project could be completed to the quality level required.

### **Decision**

To confirm a contingency sum of £500,000 to support the approval capital project budget described in paragraph 1.3 of the Financial Implications of the report.

## **Performance Monitoring**

### **150/07 Annual Performance Assessment of Children and Young People's Services**

The Council Cabinet considered a report on Annual Performance Assessment of Children and Young People's Services. This third Annual Performance Assessment (APA) of services for children and young people in Derby was undertaken in September 2007 by Ofsted, which now included Children's Social Care Inspectorate (CSCI). The assessment covered all aspects of the Council's performance in relation to the five Every Child Matters outcomes in the performance framework for Children and Young People's Services.

### **Decision**

1. To place on record Council Cabinet's thanks to the staff from the Children and Young People Service's and partners in their working to achieve the grades outlined in the Annual Performance Assessment.
2. To note the 2007 Annual Performance Assessment of Services for Children and Young People.
3. To note the improved performance from 2005 - 2006 and issues highlighted for improvement in 2007 - 2008.

### **151/07 Exclusion of Press and Public**

To consider a resolution to exclude the press and public during consideration of the following item:

"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 paragraph 3 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

### 152/07 Disinfestation Centre and Adjoining Freehold Interest

To consider exempt information in relation to the Disinfestation Centre and Adjoining Freehold Interest.

#### Decision

1. That the bid of £2,131,000 for the joint interests, minus any abnormals for ground conditions, is accepted from Prime, provided that an unconditional contract is exchanged on or before 25 January 2008.
2. That an equivalent income is to be credited to the Estates revenue budget to allow for the income lost through disposals which support the general capital programme.
3. That the estimated costs of £70,000 for the replacement premises at Stores Road which are necessary to achieve this disposal are met from our share of the anticipated net receipt.

MINUTES END