

Time began: 2.00pm  
Time ended: 2.44pm

## **COUNCIL CABINET**

### **21 November 2023**

Present	Councillor Shanker (Chair) Councillors Dhindsa, Hezelgrave, S Khan, Martin, Peatfield, Swan and Whitby
In attendance	Councillors Poulter and Prosser Paul Simpson – Chief Executive Emily Feenan - Director of Corporate Governance, Property and Procurement and Monitoring Officer Alison Parkin – Director of Finance Heather Greenan – Director of Corporate Management Sam Dennis – Director of Communities Catherine Williams – Director of City Growth and Vibrancy Ian Fullagar – Head of Strategic Housing Harman Kaur – Deputy Youth Mayor

This record of decisions was published on 23 November 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.

### **75/23      Apologies**

An apology for absence was received from Andy Smith – Strategic Director of People Services.

### **76/23      Late Items**

There were no late items

### **77/23      Receipt of Petitions**

There were no petitions.

### **78/23      Identification of Urgent Items to which Call In will not apply**

There were no items.

### **79/23      Declarations of Interest**

There were no declarations of interest.

## 80/23 Minutes of the meeting held on 11 October 2023

The minutes of the meeting held on 11 October 2023 were agreed as a correct record.

## Matters Referred

### 81/23 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.

## Key Decisions

### 82/23 Castleward Urban Village – Acquisitions and Budget Update

The Council Cabinet considered a report which gave an update on progress with delivering the Castleward Urban Village regeneration programme.

The report set out proposed changes to the cost and funding arrangements in respect of the compulsory purchase programme at Castleward and sought approval for the associated changes to the capital programme.

It was noted that the recommendations would conclude the current CPO activity, excepting for the ongoing negotiation and making of compensation payments.

The Executive Scrutiny Board noted the report.

#### **Options considered**

##### **1. Proceed with Phase 5 acquisitions under the current contractual arrangements**

This was the status quo option. The Council would acquire the land and CL would guarantee to pay the Council's costs up to the limit set in the CPO Indemnity Agreement (CPOIA). Land transferred to CL would be at a price reflecting a

valuation at the time. The overage provisions of the Development Agreement (DA) would remain in operation, meaning that over-achievement of sales forecasts would be shared between CL and the Council.

Under this option, the Council would have to fund all costs above the current limit of underwriting in the CPO Indemnity Agreement. Given the total project costs required funding from the developer that was significantly higher than this, the Council would need to be confident that the capital receipts from the sale of land to CL in Phases 4 and 5 would cover this. Overage arising from future development could contribute, and so reduce the Council's risk, but this could not be guaranteed.

In a rising market, the Council could decide to take this higher risk option, in order to maintain future potential benefit from overage provisions and future capital receipts. However, in current market conditions it was recommended that the risks of this option were too high. It was preferable to allow CL to assume a much greater share of the development risk in return for a series of fixed capital receipts.

## **2. Defer making a decision**

The Council could defer making this decision and see how market conditions evolved. March 2024 was realistically the latest that Council Cabinet could decide to accept the recommendations in this report, for the necessary agreements to be signed, as any General Vesting Declarations (GVDs) must be executed and served by May 2024.

This option was not recommended, as the costs and benefits of paragraph 6.1 of the report were not likely to have become significantly clearer by that time. This option would cause further delay in giving clarity to the affected businesses, who would be left unsure whether they needed to relocate or not.

In addition, should the housing market not strengthen in that time, it was more than possible that CL may withdraw the current offer to extend their underwriting, which would leave paragraphs 6.1 and 6.3 of the report as the only possible options.

## **3. Do not implement the CPO for all of Phase 5**

It was possible that CL, or indeed another developer, might be able to assemble the land by agreement, but this was unlikely in the short term, as ownership was highly fragmented. This would mean CL's development proposals would have to be revised and industrial units would remain, compromising the salability of nearby homes. A number of homes, including affordable homes, would not be delivered, with implications for regeneration and housing priorities. The risk of clawback of the Housing Infrastructure Fund grant may be increased because fewer homes would be delivered against the HIF Funding Agreement.

## **Decision**

1. To approve an addition of £2.082m to the Castleward CPO capital budget funded by developer contributions, and to update the Capital Programme and profiling as set out in paragraphs 7.7 and 7.8 of the report.

2. To delegate authority to the Deputy Chief Executive (Place), following consultation with the Director of Financial Services (S151 Officer) and the Cabinet Member for City Centre, Regeneration, Culture and Tourism, to enter into a Deed of Variation to the existing CPO Indemnity Agreement with Compendium Living, and a Deed of Variation to the overarching Development Agreement.
3. Subject to completion of the necessary Deeds of Variation, to approve the acquisition of all the remaining property interests for Phase 5 of the Castleward development by way of compulsory purchase, payment of compensation claims, and the subsequent transfer of all relevant land interests to Compendium Living, in accordance with the amended Development Agreement.

## **Reasons**

1. The regeneration of Castleward was a key component of the City's ambition for Derby to be a vibrant and thriving city, and a key housing priority within the Local Plan.
2. To continue the use of statutory powers to assemble land within the CPO area before compulsory purchase powers lapse in May 2024, without which further delivery was likely to stall.
3. Increases in forecast CPO compensation costs required additional funding. Agreement with Compendium Living was necessary for an increase in the amount they were prepared to contribute, in exchange for removing development phases 3 to 5 from further financial requirements of the DA. In line with Financial Procedure Rules, Council Cabinet approval was required to amend the capital programme to reflect the increased cost and funding package.

## **83/23      Compulsory Purchase of Empty Homes**

The Council Cabinet considered a report which sought approval to initiate compulsory purchase proceedings in relation to 3 long-term vacant properties, where the owners had not sufficiently demonstrated that they would be occupied in the near future.

The Council's Empty Homes Strategy aimed to facilitate the renovation and re-occupation of vacant dwellings to help meet local housing demand. The actions may also help tackle environmental nuisance that neglected properties could present. Re-use of these homes would contribute towards the Council's New Homes Bonus income.

Where owners could not be traced or were unwilling/unable to bring a property into use, there was a compelling case in the public interest for the Council to take enforcement action to achieve the aims of the strategy.

Compulsory purchase could return problematic empty homes to useful housing stock.

The Executive Scrutiny Board noted the report.

### **Options considered**

1. Do nothing. This was not considered appropriate. The properties would remain a waste of potentially good housing and increasingly blight their respective neighbourhoods.
2. Enforced sale. There were currently no relevant property-based financial charges registered against the properties that would facilitate this option.
3. Empty Dwelling Management Orders. These involved the return of the properties to the original owner in the longer term. As the owners had failed to bring these empty homes into beneficial use a permanent change of ownership was considered to be most beneficial to the public interest.
4. Other enforcement powers. The local authority has powers to deal with structural danger, nuisance or other environmental problems. These alone were piecemeal and reactive in nature and did not provide a long-term strategic solution for these long-term empty homes.

### **Decision**

1. To approve the making of Compulsory Purchase Orders under the Acquisition of Land Act 1981 (pursuant to the power under section 17 of the Housing Act 1985) for the acquisition of the houses, together with the associated land, as identified in Appendix 1 (confidential) for the purposes of their renovation and reoccupation as housing accommodation.
2. To delegate authority to the Strategic Director of Communities and Place, following consultation with the Cabinet Member for Housing, Property and Regulatory Services, the Director of Corporate Governance, Property and Procurement and Monitoring Officer and the Section 151 Officer to:
  - take all necessary steps to secure the making, confirmation and implementation of the Compulsory Purchase Orders;
  - acquire the legal interests in the properties, whether by voluntary agreement or compulsorily using statutory powers set out in the preceding paragraph;
  - dispose of the properties in accordance with the proposals set out in this report; apply financial procedure rules regarding acquisition and disposal of property;
  - suspend or abandon the compulsory purchase order proceedings, or withdraw an order, in relation to any particular property on being

satisfied that the subject dwelling will be satisfactorily renovated and re-occupied voluntarily;

- take necessary action to deal with all matters relating to the payment of statutory compensation including, where required, instituting or defending related proceedings;
- take all other necessary action to give effect to these recommendations.

## Reasons

1. The properties identified in confidential Appendix 1 had been vacant for a number of years and all reasonable options open to the Council to encourage the respective owners to voluntarily bring them back into use had proven unproductive.
2. Restoring the houses to the useful housing stock would contribute to meeting the increasing housing needs in Derby.
3. The risk of common problems associated with empty buildings such as trespass, vandalism, fly tipping or anti-social activities would be reduced.

## Budget and Policy Framework

### 84/23      2023/24 Quarter 2 Financial Monitoring

The Council Cabinet considered a report which summarised the Council's forecasted financial outturn position at 30th September 2023.

- a) **Revenue Budget:** The Council was currently forecasting a pressure of £6.560m against the current budget of £284.805m before use of reserves to mitigate which was an increase of £0.469m from the Quarter 1 position of 6.091m.

There had been continued focus on controlling spend including spending panels, spending moratoriums and vacancy control which would help ensure the Council delivered a balanced position and reduce any use of the Budget Risk reserve or the General reserve.

£15.402m of the Council's in year savings target of £16.196m for 2023/24 was currently forecast to be achieved which is 95%. Work was ongoing to achieve the shortfall by one off mitigations or alternative savings. Further detail was outlined in paragraph 4.2.47 of the report.

- b) **Capital budget:** Capital expenditure to date was £83.428m and our forecast was estimated at £233.406m against an approved capital budget of £226.213m. Further detail was outlined in paragraph 4.5 of the report.

- c) **Reserves:** The General Reserve had a current year forecast balance of £4.629m and a future year's forecast balance of £9.907m (This included apportioning £4.304m of Quarter 2 forecast overspend). The future years balances in reserves were reliant upon planned replenishments in the current MTFP of £10.278m outlined in paragraph 4.4 of the report.

The Budget Risk reserve had current year forecast balance of zero and a future years' forecast balance of £0.752m (This included apportioning £2.256m of Quarter.2 forecast overspend).

These apportionments had been done as an illustration of the impact of the current forecast.

- d) **Housing Revenue Account (HRA):** The full year forecast projected a planned use of the HRA reserve of £3.098m was outlined in paragraph 4.7 of the report.
- e) **Dedicated Schools Grant (DSG):** The total grant of £307.529m had been allocated to schools and retained educational services. There was an overspend forecast for 2023/24 on the High Needs Block of the DSG of £12.225m taking the cumulative deficit to £15.972m as outlined in paragraph 4.8 of the report.
- f) **Collection Rates:** Council Tax billed for the 2023/24 financial year was £145.573m of which £78.745m or 53.82% had been collected. Business Rates billed for the 2023/24 financial year was £86.601m of which £48.685m or 55.82% had been collected as outlined in paragraph 4.9 of the report.

The Executive Scrutiny Board resolved to recommend to Council Cabinet that in the interest of accountability and good governance, a paper documenting the decisions made in the review of the 2023/2024 Budget, as was set in February/March 2023, is brought before the Executive Scrutiny Committee, ahead of the 2024/2025 Budget. This paper is to comprise of all the decisions and changes that were made as part of the review and what the financial implications of these were, including the allocation of any additional funding and re-allocation of any savings.

### **Options considered**

No other options considered as the Council had a statutory obligation to achieve a balanced budget position.

### **Decision**

1. To note:
  - a) The National context as set out in sections 4.1.2 of the report.
  - b) The revenue projected outturn and key budget variances were set out in section 4.2 of the report with detailed analysis in Appendix 7 and

the savings to be delivered in the year outlined in section 4.2.47 of the report.

- c) The Council's Reserves position, as set out in section 4.4 and Appendix 1 of the report.
  - d) The capital programme forecast, and actual capital expenditure incurred during the quarter summarised in section 4.5 of the report.
  - e) The changes already approved under scheme of delegation to the capital programme detailed in Appendix 4 of the report.
  - f) The Housing Revenue Account performance and projected outturn as set out in section 4.7 of the report.
  - g) The forecast Dedicated Schools Grant position summarised in section 4.8 of the report.
  - h) The Council Tax and Business Rates Collection performance as set out in section 4.9 of the report.
2. To approve changes including additions to the 2023/24 capital programme outlined in section 4.5. and detailed in Appendix 3.
3. To reject the recommendation from the Executive Scrutiny Board because the information was already in the public domain.

## **Reasons**

To provide assurance that the budgets approved by Council in February 2023 were being effectively monitored and any major variances reported to Council Cabinet on a regular basis and to update cabinet on the latest estimated reserves position.

## **Contract and Financial Procedure Matters**

### **85/23 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.

- A bid for and acceptance of £1.626m to the Department for Education funded Recruitment and Retention programme and associated delegations
- Acceptance of a revised repayment plan for an existing Derby Enterprise Growth Fund (DEGF) loan (**confidential part of the agenda**)

The Executive Scrutiny Board noted the report.

## **Options considered**

1. DfE Funding for Recruitment and Retention - Not applicable.



2. DEFG loan repayment plan - To consider calling up the debt, noting that the loan was unsecured and would result in a significant loss to the Council.

## **Decision**

1. To note a bid for and acceptance of £1.626m to the Department for Education funded Recruitment & Retention programme, with Derby City as the lead for the project, as outlined in section 4.1 of the report.
2. To delegate to the Strategic Director for People's Services, following consultation with Cabinet Member for Children's Social Care, Learning and Skills and the Director of Financial Services, authority to accept the grant and use it as per the terms and conditions agreed.
3. To approve the revised loan repayment plan as set out in section 4.2 of the report for existing DEGF capital loans to Company A, in order that a revised loan agreement can be drawn up and revised repayments collected.

## **Reasons**

To comply with Financial Procedure Rules.

## **Performance**

### **86/23      2023/24 Quarter 2 Performance Monitoring**

The Council Cabinet considered a report which stated that the Council Plan 2022 - 2025 was approved by Council Cabinet in February 2022, with the supporting annual Delivery Plan for 2023/24 approved in September 2023.

The report presented a consolidated overview of performance in line with commitments made in the latest Delivery Plan, bringing together priority performance measures, projects and strategic risks.

A commitment was made to make the Council Delivery Plan dynamic on approval, ensuring that it remained fit for purpose.

A summary of key performance highlights covering the period April 2023 to September 2023 (quarter two) could be found in paragraph 4.7 of the report, with details of key achievements presented within paragraph 4.8 of the report. Areas for further work were detailed within paragraphs 4.9 to 4.14, and a full overview of progress against the 2023/24 Council Delivery Plan was available in Appendix 1 of the report.

Alongside the latest performance results, revised targets for 2023/24 were presented for approval (Appendix 2 of the report), based on the current needs of the city, and demands on services, which would be used for monitoring in quarters three and four.

It should be noted that there were no areas recommended for consideration through either a Performance or Risk Surgery.

The Executive Scrutiny Board resolved to recommend to Council Cabinet

1. that it offers an Update on local plan progress, confirms the commitment to a cross party working group and urges officers to convene a meeting of that group as a matter of urgency; and
2. that it asks the Scrutiny Review Boards to receive and consider, including on their work plans, a presentation and discussion on the Quarterly Performance Monitoring covering their areas of interest.

### **Options considered**

No other options were considered, as it was essential that the delivery of the Council Plan could be monitored to assess impacts made for the city, alongside the delivery of value for money for Derby citizens.

### **Decision**

1. To note the latest performance positions, paying particular attention to the latest profile of our strategic risks and emerging priorities for improvement.
2. To approve the targets presented in Appendix 2 of the report, which would be used as the basis for performance monitoring for the remainder of 2023/24.
3. To note that there were no areas recommended for either a Performance or Risk Surgery.
4. To accept the recommendations from the Executive Scrutiny Board recommending to Council Cabinet that it offers an Update on local plan progress, confirms the commitment to a cross party working group and urges officers to convene a meeting of that group as a matter of urgency; and that it asks the Scrutiny Review Boards to receive and consider, including on their work plans, a presentation and discussion on the Quarterly Performance Monitoring covering their areas of interest.

### **Reasons**

1. Performance monitoring enabled us to keep track of our progress against various plans, and it was essential that Council Cabinet had regular oversight of progress against the Council Plan.
2. A key part of effective improvement was robust project and risk management, with regular senior oversight of the latest position. This made sure that there was clear accountability, and it allowed informed decision making, in a transparent way.

## 87/23 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 items on the grounds that they involved the likely disclosure of exempt information as defined in paragraphs 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

### 88/23 Castleward Urban Village – Acquisition and Budget Update

The Council Cabinet considered exempt information in relation to the delivery of the Castleward Urban Village regeneration programme.

The Executive Scrutiny Board noted the report.

#### **Options considered**

These were set out in paragraphs 6.1 to 6.3 of the report.

#### **Decision**

To approve the recommendations set out in paragraphs 2.1 to 2.3 of the report.

#### **Reasons**

These were set out in paragraphs 3.1 to 3.3 of the report.

### 89/23 Compulsory Purchase of Empty Homes

The Council Cabinet considered exempt information in relation to the compulsory purchase of empty homes.

The Executive Scrutiny Board noted the report.

### 90/23 Compliance with Contract and Financial Procedure Rules

The Council Cabinet considered a report which sought approval to accept a revised repayment plan for an existing Derby Enterprise Growth Fund (DEGF) loan.

The Executive Scrutiny Board noted the report.

**Options considered**

These were set out in paragraph 6.1 of the report.

**Decision**

To approve the revised loan repayment plan as set out in paragraph 4.1.3 of the report.

**Reasons**

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

**MINUTES END**