

Notice of Call-In of an Executive Key Decision

In accordance with Rule OS36 of the Council's Constitution, we the undersigned hereby give notice that we wish to call-in the following key decision:

1. Decision: 161/22 Long Term Waste Contract The Council Cabinet considered a report which gave an update on the development of the Full Business Case relating to the future use of the New Waste Treatment Facility (NWTF) and to sought approval to the proposed next steps in relation to the NWTF.
2. Meeting at which the decision was made: Council Cabinet
3. Date of the meeting: Thursday 2nd February 2023

We believe that the following principles of decision making have been breached by the making of this decision (tick relevant boxes):

- a) Proportionality (i.e. the action must be proportionate to the desired outcome) ☒
- b) Due consultation and the taking of professional advice from officers ☒
- c) Respect for human rights ☒
- d) A presumption in favour of openness ☒
- e) Clarity of aims and desired outcomes ☒
- f) A record of what options were considered and giving the reasons for the decision ☒

and/or that relevant issues do not appear to have been taken into consideration ☒

We believe these principles have been breached for the following reasons:

	Principle	Reasons why breached
a.	Proportionality	We believe that given the significance of this decision and the long-term impact that this will have on the lives of residents in Derby plus the financial burdens that are associated with this decision, proportionality was not given sufficient consideration in relation to context and impact. The decision to begin procurement for a repair and restart option and enter IAA3 is not proportional to the impact and financial burdens associated with the decision.
b.	Due consultation and the taking of professional advice from officers	There is no reference in the several hundred pages of reports used as the basis of the actual Cabinet Report that states members of the public and particularly the residents living close to the Site were consulted or even attempted to be consulted. We are told millions of pounds was spent on various professional consultants with almost 200 reports, survey and analysis being written yet not one conversation took place with the residents whose lives have been blighted by this plant. We have since learnt that there are allegations pressure was put on consultants to make the business case more favourable for Option 1 compared to Option 5. This should urgently be investigated.
c.	Respect for human rights	We believe that there has been a total disregard to the human rights of local residents, not having any say in the near 200 reports that have been drafted, not being consulted on any of the options and not being consulted in any of the recommendations. We believe that it is a further breach as the recommendations do not even state there will be a future consultation.
d.	A presumption in favour of openness	We feel that this decision has been taken with a complete disregard to openness and in fact with a presumption in favour of deceit, secrecy and ambiguity. Cllr Shanker argued at the beginning of the meeting that a public report and debate could have been prepared and conducted that

		set out the context of the decision being sought, and a lot of the information shared openly. We totally respect that some information could be deemed commercially sensitive but dispute that all the reports needed to be controlled with such levels of secrecy.
e.	Clarity of aims and desired outcomes	The aims and outcomes of this decision are far from clear. Cabinet Members and in fact the Leader claimed that this decision is merely taking the project to the next stage ie. a procurement exercise to find a suitable partner to repair and restart and that there would be a further Cabinet Decision to actually appoint or commit to the next stage. Experience and detailed reading of the articles of association that will form IAA3 (which is being delegated) clearly commit DCC to this repair & restart now. This is a very premature move that will have lasting legal and financial implications.
f.	A record of what options were considered and giving the reasons for the decision	The business case is very marginal, The SWOT analysis demonstrates that there is significantly more risk, that could mean more cost, associated with Option 1. The Council report isn't reflective of the FBC in my view significantly understates the risks and the marginality in the FBC. The issue between capital and revenue funding for £34m+ is briefly mentioned in passing in the council report, suggesting it has no real bearing or impact on the final decision taken. We believe this is a major factor of the decision and was not given detailed analysis or consideration in the report.
	and/or that relevant issues do not appear to have been taken into consideration	The outcome of the May election is of great significance to this decision as is the outcome of the court case. Both should be allowed to conclude before this decision is made or any contracts are signed. To do so before the election is financially negligent and is purely a political decision, based on the Political make up of the County and current City minority administration.

1. Signed

NameCllr Baggy Shanker..

2. Signed

NameCllr Nadine Peatfield

3. Signed

Name Cllr Jhangir Khan.....