

Time Commenced – 18:00
Time Finished – 19:17

Executive Scrutiny Board

9 April 2019

Present: Councillor Graves (Chair)
Councillors Ashburner, Eldret, Hassall, Hudson, J Khan, Potter,
Rawson, Russell, Stanton, Willoughby and Wood.

In attendance: Mike Brown (Arts Development Manager), Emily Feenan (Interim Director of Legal, Procurement and Democratic Services and Monitoring Officer), Mandy Fletcher (Head of Finance – Communities and Place), Michael Gillie (Improvement Officer), Greg Jennings (Director of City Development and Growth), Don McLure (Strategic Director of Corporate Resources), Steven Mason (Democratic Services Officer), Gurmail Nizzer (Director of Childrens Integrated Commissioning), Catherine Williams (Head of Regeneration and Major Projects).

99/18 Apologies for Absence

Apologies for absence were received from Councillor Marshall.

100/18 Late Items

Introduced to the Council Cabinet agenda as late items was a report of the Director of City, Development and Growth on Bold Lane Office Development and a report of the Strategic Director of Corporate Resources on A52 Wyvern Transport Improvements Project Update.

101/18 Declarations of Interest

There were none.

102/18 Minutes of the meeting held on 12 March 2019

The minutes of the meeting held on 12 March 2019 were agreed as a correct record.

103/18 Forward Plan

The Board considered the contents of the Forward Plan published on 12 March 2019.

No items were added to the future work programme.

The Executive Scrutiny Board resolved to note the Forward Plan.

104/18 Performance Items and Performance Forward Plan

The Board received a report of the Chief Executive presenting the Executive Scrutiny Performance Forward Plan and allowing the Board to make amendments as necessary for items to be considered at future meetings.

A presentation on Update on Regeneration Projects was received by the Board.

Update on Regeneration Projects

Members received an update on the Derby Economic Growth Strategy. It was reported that the Delivery Plan for the strategy, comprised of the following five priorities:

- Digital skills
- Business incubation & Scale UP
- Vibrant Learning City
- Connected Metro
- International Economy

It was reported that Derby's economy added an average 1,200 net jobs a year over the last Economic Growth Strategy period and that Council interventions accounted for a significant proportion of those.

Members received an update on the current position with the new Assembly Rooms. It was reported that Perfect Circle was engaged to provide detailed design work and other professional services, building on the feasibility study and taking the project through the pre-construction phase. It was also reported that Public and stakeholders would have a chance to engage with the proposals before a planning application was submitted.

Members were updated on the Becketwell redevelopment, which would include over 500 residential units, a new public square, high quality office space, hotels, restaurants, cafes and a 500 space car park.

Members were informed about the transformation of Derby Market Hall, which would focus on local and high quality food and drink, making the Market Hall a destination into the evening, supplemented by themed markets and events.

Members were updated on other elements of the City Centre Masterplan, including the office development at One Cathedral Green, the Museum of Making at Derby Silk Mill and the Derby Canal Trust pleasure boat operations.

It was reported that development at Infinity Park was gathering momentum and that iHub was now over 94% occupied, with Nuclear Advanced Manufacturing Research Centre recently taking up their space. Members noted that the plan was to continue developing Infinity Park into a science and technology campus for the Midlands, including a potential University of Derby Science Park.

Members were informed about accelerating housing delivery in the city, including at the Castleward site, the former Derby Royal Infirmary site and the Former Rolls Royce site (Osmaston).

Members discussed the resources required to deliver these plans.

Members wished to thank the team for all of their efforts and ongoing work.

Members questioned officers in relation to the choice of Derby Live as the operator of the Assembly Rooms. Members were interested to learn how Derby Live was chosen, rather than an external private operator. It was agreed that the criteria and process used to choose Derby Live as the operator should be considered at a future meeting of either the Regeneration and Housing Board or the Executive Scrutiny Board. Members requested that the relevant business model and ongoing subsidy figures be circulated to Members of the Committee.

The Executive Scrutiny Board resolved:

- 1. to note the report;**
- 2. to agree that the thanks of the Board to the team for all of their efforts and ongoing work, be noted; and**
- 3. to agreed that the criteria and process used to choose Derby Live as the operator of the Assembly Rooms should be considered at a future meeting of either the Regeneration and Housing Board or the Executive Scrutiny Board.**

105/18 Council Cabinet Response to Scrutiny Recommendations

The Board considered a report of the Chief Executive which allowed the Scrutiny Board to receive responses from Council Cabinet on recommendations made at the previous Board meeting held on 12 March 2019.

The Board resolved to note the report.

106/18 Council Cabinet Agenda

The Board considered a report of the Chief Executive on the Council Cabinet Agenda. Members considered the Council Cabinet Agenda in its entirety for the meeting scheduled for Wednesday 10 April 2019 and made a number of comments and recommendations to Council Cabinet.

Late Items

Item 2 – Bold Lane Office Development

The Board received a late report of the Director of City, Development and Growth on Bold Lane Office Development.

It was reported that in September 2018, Cabinet approved the delivery of the Bold Lane Office Development project through a developer delivery model. It was also reported that the model for delivering Grade A offices at the Bold Lane site was being reported to Cabinet due to the recent Court of Appeal decision in the 'Faraday case' which had resulted in a broadening of the definition of "public works contracts" for the purposes of EU procurement regulations.

Members noted that on 16 November 2018, the Court of Appeal issued its judgement in the case of Faraday Development Ltd v. West Berkshire Council and St Modwen Developments Ltd [2018] (Faraday) and that this judgement had changed the settled position in respect of the interaction between development agreements and the Public Contract Regulations 2015 and had introduced uncertainty in respect of what had previously been considered acceptable structures for projects involving development agreements. It was also noted that the facts of the Faraday case were comparable with the proposed structure for the Bold Lane project and therefore progress on the project had been paused to review the risks associated with continuing under the current delivery model.

The report set out the impact of the Faraday case on the delivery of the Bold Lane project and sought approval to cease the current process with Jensco Group and to agree that officers should explore delivery options for the Bold Lane project and bring an options report and updated business case back to Cabinet.

It was noted that the report was being considered as a late item by Council Cabinet as it needed to be considered before the next meeting.

The Executive Scrutiny Board resolved to note the report.

Item 2a – A52 Wyvern Transport Improvements Project Update

The Board received a late report of the Strategic Director of Corporate Resources on A52 Wyvern Transport Improvements Project Update.

The report provided an update on the work that had been carried out since the A52 Wyvern Transport Improvement Project was agreed by Cabinet on 12 September 2018.

Members noted that the report was seeking the following approvals:

1. To amend the Council's Capital Programme in 2019/20 and 2020/21 and approve a revised Project budget of £40.3m plus a £2.9m contingency risk budget ("Project Budget"). The Project Budget of £43.2m in total includes an estimate of final construction costs including an additional £1m for enhanced road surfacing of the A52 Project over and above the original specification,

projected staffing and consultancy costs, latest land acquisition and service diversion estimates.

2. To note the revised Project design and revised construction programme and specifically to approve the change from a signalled crossroads to a signalled roundabout at the Wyvern Way/Derwent Parade junction, as more fully described in paragraph 4.7 below.
3. To note the assumptions on which the Project Budget and revised construction programme are based.
4. To note the progress of negotiations with Network Rail, St Modwens and other key landowners.
5. To delegate authority to the Strategic Director of Corporate Resources following consultation with the Cabinet Member for Regeneration and Public Protection to take such executive decisions as are necessary to ensure that the Project can continue to progress as effectively and efficiently as possible, within the Project Budget.
6. To approve the additional £10.2m of Project Budget since Cabinet approval in September 2018 for the allocation of Project Budget of £33m, and this additional £10.2m be funded from sources as set out in section 7 of this report.
7. To delegate authority to the Strategic Director of Corporate Resources to issue Galliford Try with an instruction to proceed with the Project to completion within the constraints of the £40.3m budget plus £2.9m contingency risk budget.

It was noted that the report was being considered as a late item by Council Cabinet as it needed to be considered before the next meeting.

Some Members were unhappy at the very late circulation of the item and felt that it could not be properly scrutinised under such circumstances. The following recommendation was proposed and carried:

To recommend to Council Cabinet that the item be deferred to an extraordinary meeting of Council Cabinet, to allow for it to be properly scrutinised beforehand, by the Executive Scrutiny Board.

The Executive Scrutiny Board resolved to recommend to Council Cabinet that the item be deferred to an extraordinary meeting of Council Cabinet, to allow for it to be properly scrutinised beforehand, by the Executive Scrutiny Board.

Key Decisions

Item 8 – School Capital Programme 2019/20

The Board received a report of the Strategic Director of People Services on School Capital Programme 2019/20.

Members noted that the report was seeking the following approvals:

1. To approve, subject to recommendation 3 below, the Schools Capital Programme priority schemes for 2019/20 as outlined in Appendix 2 and Appendix 3.
2. To approve, subject to recommendation 2.3 below, scheme commencement, subject to final allocations being confirmed by the DfE as set out in paragraph 8.3, and the amendment of the approved 2019/20-2020/21 capital programme with the proposed scheme allocations.
3. To note that the final allocations will be reported to Cabinet once confirmed by the Department for Education (DfE), and any adjustments necessary in line with recommendations 2.1 and 2.2, should there be a variation from the indicative allocation of £1.67m.

The Executive Scrutiny Board resolved to note the report.

Item 9 – Customer Feedback Policy

The Board received a report of the Strategic Director of Corporate Resources on Customer Feedback Policy.

It was reported that in 2014 the Council adopted a new Customer Feedback Policy and reviewed its processes to ensure adequate capture of complaints, monitoring of performance and management oversight of learning outcomes. However, it was also reported that this was not being consistently applied across the Council and that there were opportunities to make the policy and processes more accessible to the citizens of Derby.

Members noted that the report sought approval for an updated Customer Feedback Policy and an improved complaints process.

The Executive Scrutiny Board resolved to note the report.

Item 10 - Approval for the Revised Funding Arrangements for the: Cuttle Brook Flood Alleviation Scheme (CBFAS)

The Board received a report of the Strategic Director of Communities and Place on Approval for the Revised Funding Arrangements for the: Cuttle Brook Flood Alleviation Scheme (CBFAS).

Members noted that the report was seeking the following approvals:

1. To approve the submission of bids to the Trent Region Flood and Coastal Committee (RFCC) for £260,160 of Local Levy and delegate approval to the Strategic Director of Communities and Place following consultation with the Strategic Director of Corporate Resources and subject to acceptable grant conditions, to accept the grant monies on completion of project stages.
2. To approve the submission of the Business Case to the Environment Agency (EA) to secure the £389,850 of DEFRA Flood and Coastal Erosion Risk Management Grant in Aid funding and delegate approval to the Strategic

Director of Communities and Place following consultation with the Strategic Director of Corporate Resources and subject to acceptable grant conditions, to accept the grant monies on completion of project stages.

3. To approve the commitment of £250,000 of the 2019 / 2020 DCC Flood Defence Capital Budget to underwrite a proportion of the £463,780 project risk budget.
4. To approve the take up of £35,000 of FCERM GiA funding before the end March 2019.
5. To approve slippage of any grant monies not utilised in 2018 / 2019 financial year in to the new financial year, in order to allow for completion of the works before the end of December 2019. (*) (Note £53,870 Revenue funding currently received will need to be capitalised).

It was also noted that it was intended that any unused DCC Capital monies committed to the risk budget allocation would be made available for other works, should the risk budget allocation not be required as intended.

The Executive Scrutiny Board resolved to note the report.

Item 11 - Contract and Financial Procedure Matters

The Board received a report of the Strategic Director of Corporate Resources outlining a number of items that required reporting and approval by Council Cabinet under Contract and Financial Procedure Rules.

It was reported that approvals were being sought for the following items:

1. To approve the adoption of changes to Financial Procedure Rules to support the implementation of pre-paid cards in Peoples services, as detailed in section 4.1.
2. To delegate authority to the strategic Director of Corporate Resources in consultation with the Cabinet Members for Adults Health and Housing and Finance and Procurement to accept the second year funding grant from MHCLG Rough Sleeper Fund for 2019/20 for the sum of £0.343m subject to agreeable terms and conditions, as detailed in section 4.6.
3. To approve the transfer of the 2019/20 Rough Sleeper Fund grant from Derby City Council to Housing Options within Derby Homes subject to a Service Level Agreement, as detailed in section 4.6.
4. To approve delegated authority to the Strategic Director for Communities and Place following consultation with the Strategic Director of Corporate Resources and Leader of the Council, to accept and enter into a variation to the Deed of Grant between East Midlands Business Limited and Derby City Council in regard to the D2N2 Growth and Innovation Programme, as detailed in section 4.14.

5. To approve the Council's match funding contribution to the D2N2 Growth and Innovation Programme 2 (GIP2), as detailed in section 4.14.
6. To approve a waiver of the Contract and Procedure Rules in order to award a works contract directly to St James Securities (SJS) to progress public realm works as part of the Becketwell Regeneration scheme, as detailed in section 4.20.

The Executive Scrutiny Board resolved to note the report.

Item 12 - Consideration of Existing Loan Made to Derby QUAD Ltd

The Board received a report of the Strategic Director of Communities and Place on Consideration of Existing Loan Made to Derby QUAD Ltd.

The report provided historical and financial context regarding a loan made to Derby QUAD Ltd in 2008, and provided rationale for the recommendation to write off the outstanding balance of the loan.

Members noted that the report was seeking the following approvals:

1. To note the significant contribution QUAD has made to the cultural life of the city and the positive economic and social impacts that this has delivered.
2. To note the positive relationship with Arts Council England and the favourable context for investment in culture this creates, which in turn is supporting the delivery of shared objectives for Derby.
3. To approve the writing off of the outstanding £200,000 loan made to Derby QUAD Ltd in 2008.
4. To recognise that recommendation 2.3 above supersedes Cabinet Decisions 3, 4 and 5 within minute number 100/10 made on 26 October 2010.

The Executive Scrutiny Board resolved to note the report.

Item 13 – Review of Support Services Provided to Derby Homes

The Board received a report of the Strategic Director of Corporate Resources on Review of Support Services provided to Derby Homes.

It was reported that on 6 November 2013 Cabinet agreed recommendations regarding the transfer of back office services into the Council from Derby Homes. It was also reported that there had been a recent value for money review of the Accountancy Services and HR Services and that the report highlighted the conclusion of that work.

It was noted that the following approvals were being sought:

1. To approve, subject to consultation, the transfer of four positions within the Accountancy Services team in the Council to Derby Homes.
2. To note the revised arrangements for HR Support.

The Executive Scrutiny Board resolved to note the report.

Item 14 – Exclusion of the Press and Public

The Board considered a resolution to exclude the press and public for the consideration of exempt detail contained within a report discussed earlier on the Council Cabinet agenda.

The Executive Scrutiny Board 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 item on the grounds that it involved the likely disclosure of exempt information as defined in paragraphs 4 and 5 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.

Item 15 – Review of Support Services Provided by Derby Homes

The Board received exempt detail in the report of the Strategic Director of Corporate Resources, providing further information on the proposed transfer of four positions within the Accountancy Services team in the Council to Derby Homes and the revised arrangements for HR support.

The Board made no further recommendations.

MINUTES END