

Time began: 6.00pm  
Time ended: 7.45pm

**COUNCIL CABINET**  
**17 APRIL 2013**

Present Councillor Bayliss (Chair)  
Councillors Banwait, Dhindsa, Hussain, Rawson, Repton,  
Russell and Shanker

In attendance Councillors Hickson, Jones, Tittley and Whitby

This record of decisions was published 19 April 2013. 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.

**187/12 Apologies**

There were no apologies for absence.

**188/12 Late Items Introduced by the Chair**

There were no late items.

**189/12 Receipt of Petitions**

There were no petitions received.

**190/12 Identification of Urgent Items to which Call In will not apply**

There were no items.

**191/12 Declarations of Interest**

There were no declarations of interest.

**192/12 Minutes of the meeting held on 20 March 2013**

The minutes of the meeting held on 20 March 2013 were agreed as correct record and signed by the Chair.

**Matters Referred**

## 193/12 Recommendations from the Overview and Scrutiny Boards

The Council Cabinet considered a report which stated that two topic reviews had been undertaken, one by the Corporate Scrutiny and Climate Change Board on a review of challenging regeneration sites and the other by the Children and Young People Board on whether our children's homes were fit for purpose.

### **Review of Challenging Regeneration Sites**

The Chair of the Corporate Scrutiny and Climate Change Board presented the report which stated that there were a number of sites in and around the city centre that had been vacant for a number of years such as the Friar Gate Goods Yard and Duckworth Square. The Corporate Scrutiny and Climate Change Board felt these were having a detrimental impact on the city and therefore conducted a detailed review. The Board held a number of special meetings and received evidence from a wide range of witnesses including senior regeneration officers and major developers. The report set out the recommendations of the Board.

### **Are our Children's Homes Fit for Purpose**

The Chair of the Children and Young People Board presented the report which stated that the Children and Young People Board looked at whether our children's homes are fit for purpose now and in the future? The report set out the recommendations from the Board.

### **Decision**

1. To receive the recommendations from the review of challenging regeneration sites topic review and request that a response to the recommendations be prepared for a future meeting.
2. To accept all the recommendations from the 'are our children's homes fit for purpose now and in the future?'

## Key Decisions

### 194/12 School Places – DfE Targeted Basic Needs Programme

The Council Cabinet considered a report on School Places – DfE Targeted Basic Needs Programme. The Department for Education (DfE) recently announced school capital funding allocations to Councils. Included in that announcement was the DfE's Targeted Basic Need programme to fund the need for the provision of new, high quality school places in locations experiencing basic need pressures.

The programme would provide additional support to those Local Authorities (LAs) experiencing the pressure for places for new schools, as well as enabling investment to permanently expand good and outstanding schools with high levels of demand.

The proposal was to consider options to permanently expand those primary schools currently proposed for a temporary increase that meet the DfE bid criteria. Other schools may also be considered.

The timescales to submit this detailed bid was 30 April 2013 which was extremely tight. There were significant conditions that had been to be met and very detailed information that needed to be submitted.

### **Options Considered**

In view of the need for additional school places and limited capital funding, a bid should developed and submitted for capital funding to create additional places.

### **Decision**

1. To approve the submission of a bid to permanently expand primary schools, providing they meet the DfE bid criteria.
2. The delegate authority to the Strategic Director of Children and Young People and the Strategic Director of Resources, following consultation with the Cabinet Member for Children and Young People to approve the final bid.

### **Reasons**

By submitting a bid to permanently expand some primary schools, this will provide additional primary school places.

In accordance with Procedure Rule A126, all Members of the Council had been advised that this item would be considered although it was not included in the Forward Plan.

## **195/12 Approval of Derby's Major Transport Scheme Priorities**

The Council Cabinet considered a report on approval of Derby's Major Transport Scheme Priorities. A report was submitted to Council Cabinet on the 13 February 2013, advising on the latest position on the devolution of decision-making and funding for local major transport schemes including the establishment of a Derby, Derbyshire, Nottingham and Nottinghamshire Local Transport Body (D2N2 LTB), governed by a board of elected members.

As part of this process each local transport authority now had to submit a short list of local major schemes to the D2N2 LTB for prioritisation. The D2N2 LTB was proposing that each local transport authority supported their schemes with a minimum local contribution of 20%.

As such, all potential major transport schemes for Derby had been drawn together in a long list of 31 schemes to address the aims of the long term transport strategy in the third Derby Local Transport Plan (LTP3) 2011 to 2026. The transport strategy for

Derby was a balanced approach making best use of the existing highway network, accommodating proposed growth, planning for a resilient highway network and supporting and encouraging travel choice. The long list included major transport schemes that were strategic priorities for the city including:

- A38 grade separated junctions.
- Bus reliability schemes.
- A robust strategic cycle network.
- Strategic maintenance schemes.
- Strategic congestion management schemes.
- Strategic network management schemes.
- Our City Our River – schemes to make the highway more resilient to flooding.
- Connectivity to HS2.

The long list of strategic major transport schemes was sifted to identify schemes that would be suitable for local major transport scheme funding. Initial consideration was given to the potential for schemes to be funded through other funding sources.

The main prioritisation criteria for major local schemes, which had been proposed for the D2N2 LTB, were Economic Growth with secondary criteria of Carbon Emissions and Socio-Distributional Impacts. Further criteria for the capital schemes appropriate for this funding required them to cost over £2 million and be deliverable within the spending review period. We had identified four schemes from the long list that would be suitable for local major scheme funding.

- A52 Congestion management and Integrated Transport Package
- Dynamic Congestion Management
- South East Quadrant Major Maintenance Scheme
- Critical Renewal and Refurbishment of Major Highway Culverts

The D2N2 LTB would decide which of the investments should be prioritised, to review and approve individual business cases for those investments and to ensure effective delivery of the local major transport scheme programme. The LTB would need to submit a prioritised list of schemes for funding in the spending review period 2015/16 to 2018/19 to Department for Transport (DfT) by July 2013. A key recommendation of the report was to approve the submission of the four schemes for prioritisation by the D2N2 LTB.

Members noted that it had recently been announced by Government that the Treasury was to create a Single Local Growth Fund, pooling funding streams for transport, housing and skills. It was proposed that the Local Major Transport Funding was to be included within this funding stream. More details were to be announced in

June 2013, however Government was recommending to Local Transport Bodies that they continued with the development of their assurance frameworks and prioritisation processes.

### **Options Considered**

None.

### **Decision**

To approve the submission of the following schemes for prioritisation by the D2N2 LTB:

**A52 Congestion Management and Integrated Transport Package** potentially including:

- Improved access and egress to Wyvern/Pride Park from the A52
- Bus Priority A52 corridor
- Replacement of Meadow Lane footbridge
- Carriageway maintenance and replacement safety barriers.

**Dynamic Congestion Management** – strategic traffic management control linking technologies used by all the highway authorities to better manage interaction between traffic on the local and strategic road network.

**South East Quadrant Major Maintenance Scheme** – reconstruction of the carriageway and footways and cycle paths. The scheme included new highway drainage and safety barriers.

**Critical Renewal and Refurbishment of Major Highway Culverts** – maintenance and upgrading of culverts and improved highway drainage in the south eastern quadrant of the city.

To add the short listed schemes to the Strategic Integrated Transport Schemes Strategy Area of the approved 13/14 Highway and Transport Programme, seeking to reprioritise schemes within the approved H&T in order to fund the development and design of these major capital projects.

To note the future proposed requirement for a local contribution of 20%.

### **Reasons**

1. The Department for Transport required LTBs to publish and submit to DfT a prioritised list of local major transport schemes by July 2013. The LTB would then prioritise schemes as set out in the LTB Assurance Framework.
2. Originally there were 31 proposed major transport schemes in Derby. The process followed to sift down to a short list of schemes. The main criteria for short listing schemes had been to establish those schemes which:

- were deliverable in the Spending Review Period 2015/16 to 2018/19
  - addressed the LTP3 long term transport strategy
  - performed against the proposed LTB primary criterion Economic Growth and secondary criteria of carbon emissions and Socio- Distributional Impacts
  - required a minimum contribution of £2 million
3. A number of schemes were retained as longer term strategic transport priorities. A more detailed Working Paper had been produced that set out all the strategic priorities for the city. These include schemes where we would pursue other funding sources and schemes with timescales beyond the next Spending Review Period.

## 196/12 Planned Maintenance Capital and Revenue Work Programme

The Council Cabinet considered a report on Planned Maintenance Capital and Revenue Work Programme. The report set out the 2013/14 proposed planned property maintenance programme including the budget breakdown for each project. The proposed programme included both capital and revenue funded projects. Those projects already individually budgeted for in the Capital Programme as part of the budget setting in January 2013 were not included in the report as these had been previously approved by Council Cabinet.

Funding had been prioritised against essential condition issues and health and safety requirements, including upgrading of fire alarms and emergency lighting systems, renewing life expired boilers, heating and air conditioning systems, replacement windows, re-roofing, structural repairs, kitchen upgrades and essential refurbishment and decoration.

The work programme was managed and monitored by the Property Board in line with the governance arrangements of the Strategic Asset Management Board.

### Options Considered

Consideration had been given to delaying the approval of the maintenance programme pending clear decisions being made on which buildings the council decided to retain through the property rationalisation programme. This approach would leave properties non-compliant with key legislative requirements and would leave them unsafe and subject to recommendations for closure.

### Decision

1. To approve the planned property maintenance programme for 2013/14 for both capital and revenue projects as detailed in Appendix 2 and 3 of the report.
2. To give delegated authority to the Strategic Director for Neighbourhoods, following consultation with the Cabinet Member for Planning, Environment and Public Protection to respond to changing priorities throughout the year by introducing new projects or bringing forward the implementation of some projects at the expense of others.

## **Reasons**

1. Approval of the work programme at the beginning of the 2013/14 financial year would allow effective planning and programming of the detailed work programme, with the objective of ensuring that the property maintenance projects were delivered on time and achieve value for money. Early approval of the programme would allow us to identify risks to the delivery of projects. We would be able to review and monitor risks to ensure they did not escalate and, where possible, were eliminated.
2. In the interests of the effective management of the programme, it was appropriate for the Strategic Director of Neighbourhoods, following consultation with the Cabinet Member for Planning, Environment and Public Protection to review the programme and reallocate funding on the basis of the outcomes of investigations, feasibility studies and progress of other projects and changing health and safety priorities.
3. The current proposed maintenance programme needed to be flexible to accommodate the outcomes of decisions linked to the councils property rationalisation programme. This would ensure limited budgets could be focussed on the key properties which council decided to retain.

## **197/12     Redistribution of Community Budgets**

The Council Cabinet considered a report on devolved community budgets, which had played a crucial role in how Derby City Council engaged with, supported and strengthened communities. Budgets were devolved to Neighbourhood Boards to allocate resources to neighbourhood priorities and funds were spent on a wide range of projects that benefited the community and community groups.

Over a number of years, previous administrations had made decisions resulting in the increasing value of devolved budgets being allocated equitably across all 17 neighbourhoods. These increases, from core Council budgets, had moved resources away from previously identified 'priority neighbourhoods'. This had resulted in a situation where precious and important resources were not targeted or allocated on the basis of needs, but spread equally across the city. Meaning that for example the most affluent neighbourhood, Allestree, received the same level of devolved budget as the most deprived, Arboretum.

Community budgets consist of three funding streams:

- Streetpride devolved budget: £340k
- Highways devolved budget: £170k
- Youth, Community Safety and Highways: £102k

Funds were allocated on the basis of neighbourhood priorities identified by the neighbourhood board and local councillors. With final decisions on the allocations of funds made by the 3 ward councillors in the form of a ward committee. This was a constitutional requirement when allocating grants on behalf of the council.

The current administration viewed the equal distribution of budgets across 17 neighbourhoods as not reflecting the different needs, pressures and problems faced by our distinct neighbourhoods. To allocate delegated budgets more equitably, based upon the needs and requirements of the community enabled problems and issues to be tackled more effectively.

### **Options Considered**

1. To maintain the current level of allocation did not achieve the outcomes outlined in the report to more fairly distribute community budgets.
2. Council Cabinet considered both reductions and the ending of devolved community budgets in the most recent budget setting process.

### **Decision**

To re-distribute community budgets, based on deprivations scores outlined in Appendix 1 of the report.

### **Reasons**

1. To ensure targeted and intelligence led allocation of resources.
2. To re-distribute delegated budgets as outlined in appendix 1 represented a fairer and more equitable way of distributing important resources to local communities in the context of reducing mainstream budgets and unprecedented central Government cuts.
3. The proposal ensured that the neighbourhoods with the oldest infrastructure and socio-economic risks received greater levels of funding

## **198/12 Derby City Council Review of the Waste Management Contract**

The Council Cabinet considered a report on a of the Waste Management Contract. Following a review by Derby City Council, which found no other viable option, and the unsuccessful High Court challenge by third parties to the Secretary of State's decision to grant planning permission for the development of a long term waste processing facility utilising gasification technology at Sinfin Lane. In addition to the

supporting judgement of the planning inspector in September 2012, Derby City Council, confirmed its intention to proceed with the proposals for the site on Sinfin Lane.

The outcome of the review conducted by the City's Working Group, chaired by Councillor Banwait, into the Stage 0 report of the Revised Project Plan (RPP) identified no new environmental, financial or operational reason to challenge the existing decision of the Council to support the proposal to develop a gasification plant at Sinfin to deal with the residual waste generated by residents of the City and County.

Resource Recovery Solutions Ltd (RRS), a subsidiary of Shanks Waste Management, in their response to the issues raised by the Working Group, confirmed that considerable further work had been undertaken to prepare the Stage 1 Report and that this work confirmed that the original gasification plant remained the preferred option.

Any option other than continuing with the original decision made by previous Derby City Council administrations exposed the Council to considerable financial legal and reputational risk and may not result in a sustainable means of dealing with the City's waste.

The period of time within which alternatives could have been explored and assessed in detail was prior to the planning permission being granted and therefore that time had now passed.

### **Options Considered**

1. RRS had previously submitted the Stage 0 Report which assessed around 500 available sites within Derby and Derbyshire, and a broad spectrum of technology solutions. From the long lists of sites identified in the Stage 0 report, six sites, including Sinfin Lane, were selected in conjunction with the Councils, as being most appropriate for a more detailed assessment. In addition, the list of technologies under consideration was reduced to four.
2. The multiple options of six sites and four technologies were further reduced to two options for which a detailed financial analysis was undertaken. These had been identified as the original Sinfin Lane scheme and Celanese MBT.
3. From the shortlisted sites and technologies RRS had identified that the original gasification solution at Sinfin Lane still represented the preferred solution for the waste treatment plant, should the Sinfin Lane proposal not be able to proceed for either legal or financial reasons then other options had been identified. However the ability of the Councils to pursue these options would require clarity on procurement rules, a new planning permission and an environmental permit.

### **Decision**

To confirm the Council's original decision to develop a gasification plant at Sinfin, now the outcome of the Judicial Review was known, subject to the stage 1 Report of the revised Project Plan (to be submitted to Council Cabinet), confirming that this remained financially viable.

## Reasons

1. The decision by the Secretary of State in September 2012 to give planning approval for the site and the unsuccessful challenge by opponents to the scheme in the High Court means, in practical terms, that legal opportunities for the opponents of the plant to prevent it being built had been exhausted. The site had also been awarded the necessary environmental permits to operate the proposed technology.
2. The Cabinet Member for Neighbourhoods chaired a working group including Councillor Shanker and Councillor Afzal to review the revised project Plan Stage 0 report and RRS responded to the issues raised by the working group. In their response RRS confirmed that considerable further work had been undertaken to prepare the Stage 1 Report and that this work confirmed that the original gasification plant remained the preferred option. The Stage 1 report would be submitted to the Cabinets of the City and County Councils.
3. The review challenged figures in the Stage 0 report for various different options identified. Specific interest was shown in the comparison with the option for MBT only on Sinfin Lane to create refuse derived fuel that would then be burnt at Ferrybridge Power Station.
4. RRS were asked to look at this comparison in more detail and specifically with regard to the CO<sub>2</sub> gas emissions, process efficiency and residual waste created which appeared to be significantly better for the Ferrybridge option. The response from RRS following further work indicated that the original values in the Stage 0 report were now out of date and that following further modelling the difference between the two options was now much closer and due to the fact the values were modelled the differences could be within the error factors for the model. The detailed numbers could be provided to members if required.
5. In addition, the group established that if a decision was taken to pursue the Ferrybridge option then a new planning application for the Sinfin site would be required. This would be a very high risk option because with an MBT only process on site all waste taken into the site would then have to be transported from Sinfin Lane to Ferrybridge following treatment. This would greatly increase the number of HGV traffic movements and hence have a significant impact on local air quality, a principal plank of the objections to the original scheme, meaning that the granting of a new planning permission would be by no means certain.
6. The issue of legal liability was also explored. As members would be aware, the Council was now subject to an Inter-Authority agreement with Derbyshire County Council. This agreement limited any unilateral actions by Derby City

Council; however the County Council were asked if they would be agreeable to exploring alternative sites and / or the Ferrybridge option. In response the County Council stated that 'there is no appetite to consider any other site for a waste treatment facility now that the Sinfin Lane site has received planning permission'. The County Council also stated 'that the strongly held view of Derbyshire County Council is that there should be no further delay and we should jointly proceed with building the plant as proposed on the site at Sinfin'.

7. To pursue an alternative site or technology to the gasification plant proposed would represent a major departure from the contract agreed between the City Council, the County Council and Shanks (RRS) and would require a new procurement exercise, a new planning application and result in major delays and expose the Council to very considerable financial, legal and reputational risk.
8. The Inter-Authority agreement (signed by Councillor Carr) was a significant legal constraint should members wish to look at alternative options. Within the agreement between Derby City Council and Derbyshire County Council and RRS Ltd there were opportunities to allow alternatives to be explored by the insertion of break clauses.
9. The City Council in conjunction with the County Council as the lead authority, wrote to Shanks Waste, (once RRS) on the 4th March 2012 to waive the break clause in relation to the High Court appeal against the Planning refusal at that moment in time. This meant that the City Council was now tied into the legal agreement with the County Council and RRS.

The Cabinet Members that had been involved in the significant decisions regarding the waste project and the decisions identified are listed below:

May 2008 to April 2010 – Liberal Democrat – Portfolio holder Councillor Mike Carr.

May 2010 to April 2012 – Conservative/Liberal Democrat coalition – Portfolio holder Councillor Chris Poulter.

May 2012 to date – Labour – Portfolio holder Councillor Ranjit Banwait.

10. Throughout the waste management project there had been a significant local campaign objecting to the proposal. In response to this sustained campaign supported by the local ward Councillors the Council had undertaken a review of the project exploring all alternatives in the stage 0 report. It must be acknowledged that local concerns and objections remained, however their objections were assessed at both the public enquiry and the judicial review and in consideration of the planning permission and an environmental permit had been given thereby dismissing the evidence the objectors submitted. The review undertaken by the Council had also found no viable alternative to the current proposal.

## Contract and Financial Procedure Matters

## 199/12 Contract and Financial Procedure Matters Report

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

- Changes to the current 2013/14 – 2014/15 capital programme
- Acceptance of Department for Transport funding
- Acceptance of Department for Communities and Local Government funding
- Use of corporate contingency budget
- Use of reserves
- Receipt of Department for Education funding

### Decision

1. To approve changes and additions to the capital programme as set out in Appendix 2 and highlighted in section 4 of the report.
2. To note the revised programme for 2013/14 in table 1 (paragraph 4.1) and the revised indicative programme for 2013/14 - 2015/16 as shown in table 2 (paragraph 4.9) of the report.
3. To approve the acceptance of £4.379m funding from the Department of Transport to fund the London Road bridge scheme as detailed in paragraph 4.6 of the report.
4. To approve allocations of Section 106 monies as shown in table 3 (paragraph 5.1) of the report.
5. To approve an additional £120,000 for the Chief Executive's Directorate revenue budget in 2012/13 for funding received from the Department for Communities and Local Government - DCLG - High Street Innovation Fund as detailed in section 6 of the report.
6. To approve the transfer of £201,162 from the corporate contingency budget to the Adults Health and Housing revenue budget for 2013/14 as detailed in section 7 of the report.
7. To approve the use of £143,000 of the Transforming Social Care reserve as detailed in section 8 of the report.
8. To approve an additional £1,107,910 for the Children and Young People Directorate revenue budget in 2013/14 for funding to be received from the Department for Education – DfE - Adoption Reform grant as detailed in section 9 of the report.

## 200/12 Buy Local – Initiatives Underway to Maximise Benefits to the Local Economy from Derby City Council Procurement Expenditure

The Council Cabinet considered a report on Buy Local – Initiatives Underway to Maximise Benefits to the Local Economy from Derby City Council Procurement Expenditure. The Council Administration, since coming to power in May 2012, was committed to providing strong local leadership in its drive to boost the local economy, protect jobs and support SMEs at a time of unprecedented Government cuts and an uncertain economic growth projection. The report detailed the actions taken to ensure that the 'local and social' impact of sourcing decisions were considered when procuring contracts, and the efforts made by the procurement team to raise awareness of DCC, and other local authority procurement opportunities.

DCC procurement was subject to EU and UK regulations designed to ensure free and fair access to, and competition for, public sector contracts. They set down procedures and standards for choosing tenderers and awarding contracts. The regulations set thresholds for contract values, contracts over £173,934 had to be processed in accordance with strict rules. Under that value DCC rules applied. All procurement activity must demonstrate transparency, equal treatment and be non-discriminatory.

The Council may not legally discriminate in favour of local suppliers, however actions had been undertaken to assist local businesses in bidding for Council opportunities.

### Decision

1. To note the actions taken to date to maximise benefits to the Derby economy from Procurement expenditure.
2. To agree actions to be taken during 2013 to further develop this initiative. These were outlined in Section 5 of the report.

### Other

## 201/12 Collective Energy Switching

The Council Cabinet considered a report on Collective Energy Switching in response to the recession and the impact this has had on citizen's finances, the Labour Council Leadership was trying wherever possible to assist by using the Council's influence and buying power to achieve better outcomes.

Collective energy switching schemes were currently being promoted by a number of Councils. Their aim was to assist residents to reduce their energy costs. This was achieved by residents registering to 'pool' their energy requirements in order for an energy 'broker' to negotiate, usually by means of a reverse auction, pricing for those that had registered. The resident would receive a quotation but there was no

obligation for the resident to confirm the switch to the new provider or tariff following the quote.

Customer volume would be a key driver in the schemes obtaining a better price at auction therefore it was recommended to join forces with other authorities to increase the numbers participating.

## **Decision**

1. To sign up to the Ready to Switch collective energy switching scheme in conjunction with other councils to maximise buying power. Locally the scheme would be promoted and branded as the 'Derby City Council scheme'.
2. To request the Communication and Energy and Climate Change teams to actively assist in promoting the scheme to Derby residents to ensure as high a take-up as possible.
3. To delegate authority to the Strategic Director for Neighbourhoods and the Strategic Director for Resources following consultation with the Cabinet Members for Neighbourhoods and Streetpride and Business, Finance and Democracy to join a scheme.

MINUTES END