

Time began 6.00pm
Time ended 7.59pm

**COUNCIL CABINET
27 NOVEMBER 2007**

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

In attendance Councillor Jones

This record of decisions was published on 29 November 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.

111/07 Apologies for Absence

An apology for absence was received from Councillor Hickson.

112/07 Late Items Introduced by the Chair

There were no items.

**113/07 Identification of Urgent Items to which Call-In
will not apply**

There were no items.

114/07 Declarations of Interest

There were no declarations of interest.

**115/07 Minutes of the previous meetings held on
30 October 2007**

The minutes of the meetings held on 30 October 2007 were confirmed as a correct record and signed by the Chair.

Matters Referred

116/07 Crisis in Community Theatre in Derby

The Council Cabinet considered a minute from the Scrutiny Management Commission requesting that a report on the petition relating to Crisis in the Community Theatre in Derby be made to Council Cabinet.

Decision

1. To note that a petition has been raised.
2. To defer consideration of the petition until it had been considered by the Community Commission and to receive a further report at a future meeting.

117/07 Adult Services Budget Review

The Council Cabinet considered a report from the Adult Services and Health Commission which asked Council Cabinet to

- Makes Adult Services a high priority and funds the service appropriately
- Investigates reintroducing charges for home care services
- Does not raise the eligibility threshold from moderate to substantial to address the budgetary pressures
- Seeks support from the Local Government Association to minimise the effect of the Damping system and lobby's the Government to make more resources available for adult social services
- Reviews the Adult Social Services staffing budget and moves toward setting the budget on actual costs in line with other departments of the Council rather than on mid point salary scales

Decision

1. To note the report.
2. To consider further within the budget process.

118/07 Proposed Closure of Bramblebrook House

The Council Cabinet considered a report from the Adult Services and Health Commission on the Proposed Closure of Bramblebrook House. The Commission accepted that there was a case for closure of one home but did not believe this should be Bramblebrook as it had recently been modernised and there were other home in far worse condition. The Commissions recommended that should Council Cabinet decide to close a home this should be carried out quickly because closures placed a great amount of stress on the residents affected who should be given the time and support they needed to find suitable alternative homes. The Council should retain a strategic level of in-house provision proportion as experience showed that fees in the independent sector could raise dramatically if there was no competition. There seemed to be significant nervousness in people wishing to be placed in the independent sector and therefore Council should work alongside care providers to promote the positive attributes of independent sector.

Decision

To note the comments of the Adult Services and Health Commission.

Key Decisions

119/07 Consultation on the Closure of Bramblebrook House Residential Home for Older People

The Council Cabinet considered a report on the Proposed Closure of Bramblebrook House. On 31 July 2007, Council Cabinet agreed to:

- Begin consultation on the closure of Bramblebrook House residential home for older people
- Undertake further work in 2007 / 8 to clarify future options for the remaining seven homes, including the possibilities of mental health resource centres and extra care housing options
- Explore Extra Care Housing for older people as an option for effective use of the adjoining Arthur Neal House and Lois Ellis sites and as part of the expansion of Extra Care in Derby and to agree in principle to use any capital receipt realised for this purpose

The purpose of the report was to give feedback on the consultation on the closure of Bramblebrook House residential home and to recommend that the closure proceed.

A briefing note on related issues and a letter from solicitors acting on behalf of residents were also circulated and considered.

Options Considered

1. Doing nothing would result in worsening occupancy and poorer value for money, as well as further undermining the Council's financial position. It would also lessen the choice and positive outcomes available to the wider older people population in Derby from future developments that would not be possible.
2. Other Council residential care homes required detailed consideration as part of the ongoing options appraisal into their use and impact. However, changing the decision to nominate Bramblebrook at this stage would:
 - Result in the nomination of a home with more strategic relevance either in terms of geography or specialism.

- Lessen the likely capital receipt and therefore the potential to reinvest in new services for older people.
3. The option of selling Bramblebrook House as a going concern was also discussed. However, this was not recommended on three counts:
- Legal advice indicates there would be TUPE implications in terms of transfer of care home staff. This would mean that costs would be likely to increase for any prospective purchaser, which would most likely be reflected in their placement rates.
 - The difference in valuation between selling the full site for development and selling the two components separately, with Bramblebrook House as a going concern, had been professionally assessed at £0.4 to £0.6 million. In view of the TUPE advice above it was unlikely that the Council would get the maximum return on sale as a going concern. This would detract significantly from reinvestment in other services for older people.
 - A key premise of this and the preceding 31st July report was that demand for care home places in Derby was falling. There was no indication that maintaining a care home on the site was essential for local supply.

Decision

1. To approve closure of Bramblebrook residential home for older people at the end of May 2008 but to delegate to the Cabinet Member for Adult Services the power to extend this timescale by no more than three months if necessary.
2. To work closely with individual residents of Bramblebrook House to identify alternative placements that were suitable for them, bearing in mind their neighbourhood links, their friendship groups and their preferences about where services were delivered.
3. To ensure each affected resident had a key worker based at Bramblebrook to liaise with them, their relatives or carers and the staff at the place the resident transfers to.
4. To ensure that staff at Bramblebrook House were appropriately supported to transfer to alternative places of work.

Reasons

1. The decline in demand for residential care for older people, combined with the increase in demand for alternatives like Extra Care Housing,

means action was necessary to divert resources to where they would have most long-term impact.

2. There was enough remaining care home resource in Derby, between the independent sector and the Council's own provision, to cover needs in the long and short term.
3. The closure of a residential home for older people was very difficult for residents and their families. Care must be taken that further trauma was minimised at this sensitive time, through working closely with them and ensuring their preferences were met wherever possible. If continuity through local links or friendship groups could be maintained this should be a high priority.
4. Bramblebrook staff had provided an excellent service and engaged extremely professionally in the consultation process. The decision to close Bramblebrook House was by no means a reflection on them, and they must be supported to find alternative opportunities in the Council.

(Councillor Smalley and Williams requested that their vote against the decision be recorded.)

120/07 Adoption of the Derby Rights of Way Improvement Plan

The Council Cabinet considered a report on Adoption of the Derby Rights of Way Improvement Plan. The report set out how we had complied with the duty on the Council in the Countryside and Rights of Way Act 2000 to produce a Rights of Way Improvement Plan as part of the Council's Derby Joint Local Transport Plan. It summarised the contents of the Plan including its Statement of Action, and sought authority to adopt the Plan.

Options Considered

We could have chosen not to prepare a Rights of Way Improvement Plan because the Council has "Excellent" status. We considered, however, that the plan gave us the opportunity to draw up a clear way forward of how we could improve the city's path network for its users.

Decision

To formally adopt the Derby Rights of Way Improvement Plan.

Reasons

To allow the City Council to comply with Section 60 of the Countryside and Rights of Way Act 2000.

In accordance with Procedure Rule A126, the Chair of the Planning and

Transportation Commission had been advised that this item would be considered although not included in the Forward Plan.

121/07 Development of a Specialist Children's Home for Autistic Children

The Council Cabinet considered a report on Development of a Specialist Children's Home for Autistic Children. The proposed development of a five-bedded children's home, specifically to meet the needs of autistic children aged 11 to 17 years, arose in the context of the 2007 – 2010 budget proposals. Currently learning-disabled autistic children who needed such placements were placed out of authority in residential agency placements. Care Matters indicated that the performance requirements for looked after children would be to place within a 20 mile radius.

Options Considered

An options appraisal based on the current position was illustrated under Financial Implications.

Decision

1. To approve the development of a children's home for autistic children.
2. To authorise an application for prudential borrowing as the preferred funding route to deliver this project.
3. To request a further progress report on the funding and partnership arrangements as the work proceeds.

Reasons

1. The development of a local children's home for autistic children would provide improved quality of care at a reduced cost to the Council and meet the new Performance Assessment Framework (PAF) requirement of accommodating children within 20 miles of their family home.
2. There were two options for delivery.
 1. Through the Council's own prudential borrowing arrangements and normal tendering once a site was identified.
 2. Discussions with the Local Improvement Finance Trust (LIFT) had indicated a keen interest in delivering the project. The LIFT team took responsibility for finding a suitable site and for the design and build.
3. The savings realised from both options were very similar to each other. With the LIFT option the building did not come into Council ownership.

(see 4.10) This weighted the financial benefits clearly in favour for the use of prudential borrowing as the preferred means of procurement.

122/07 Changes to Gold Card Concessionary Travel Scheme for Elderly and Disabled People

The Council Cabinet considered a report on Changes to Gold Card Concessionary Travel Scheme for Elderly and Disabled People. Derby City Council along with Derbyshire County Council and the various borough and district councils in Derbyshire were part of the Gold Card concessionary bus fares scheme for elderly and disabled people. From 1st April 2008 the scheme would need to change to meet the requirements laid down by central government as part of the new national concessionary fares scheme. The new statutory scheme would offer free travel on local buses across England to people over 60 and those with certain disabilities between 9.30am and 11pm Monday to Friday and at all times on Saturday, Sundays and Bank Holidays. To allow this to happen new style standard national concessionary passes would need to be issued in a smartcard format.

As the scheme would now cover travel in all of England the new national concessionary cards could only be issued to the groups of people specified under the terms of the Transport Act 2000. This was because the authority where the bus trip takes place would now be liable for the cost of the journey no matter where the pass was issued. So for example the cost of a pass holder from Derby making a trip by bus in York would be paid for by York City Council. It was therefore essential that nationally only those entitled to a new card are issued one.

The current Gold Card scheme was more generous than the statutory scheme and gave free travel to certain groups of disabled not covered by the Act. This meant that there were a number of categories of disabled people who currently received a Gold Card who would not be entitled to receive a new national concessionary card.

To continue to offer these groups of people concessionary travel just within Derbyshire would mean operating two pass systems with associated additional costs and would involve negotiation of two separate reimbursement methods with operators. It would also require additional spending to pay for it beyond the extra funding which was going to be made available by central government to the various partners in the Gold Card scheme to pay for the new national scheme.

The current Gold Card scheme also offered other additional travel benefits which the new national scheme would not provide including, free bus travel at all times for certain groups of disabled people, free/half fare rail travel, and free Dial a Bus travel on Community Transport bus services.

To allow the current Gold Card discount scheme which allowed card holders to receive reduced prices at certain shops and restaurants to continue it had

been proposed that the rear of the new card be coloured gold to distinguish it from other cards issued elsewhere in the country. Also it was proposed that the cards should have a barcode on the back which would allow them to be used as a library card as well.

As the new card would be in a smartcard format they would cost more to produce. It was therefore proposed that the cost of issuing replacement cards should be increased from the current £1 to £5.

Options Considered

To continue to offer free travel within Derbyshire to the groups of people not entitled to a national concessionary card would mean operating two pass systems with associated additional costs and would involve negotiation of two separate reimbursement methods with the bus operators. It would also require additional spending to pay for it beyond that which was going to be made available to the various partners in the Gold Card scheme by central government to pay for the new national scheme.

Decision

1. To approve amendments to the existing concessionary travel scheme for elderly and disabled people from April 2008 so that it continued to meet the statutory minimum government concessionary fare scheme requirements only.
2. To approve the cost of retaining the "Gold Card" identity and associated publicity launch along with the library bar code.
3. To approve the increased charge for issuing replacements cards.

Reasons

Approval of the amendments would allow the Council to continue to meet its statutory requirements to provide free local bus travel.

In accordance with Procedure Rule A126, the Chair of the Planning and Transportation Commission had been advised that this item would be considered although not included in the Forward Plan.

123/07 National Performance Framework and Development of the new Local Area Agreement for 2008-2011

The Council Cabinet considered a report on National Performance Framework and Development of the new Local Area Agreement for 2008-2011. Local Area Agreements, LAA, were first introduced in 2005. Derby was one of 21 areas that piloted the three year initiative. Derby's LAA finishes in March 2008 and a new agreement was being developed to run from 2008-2011, in

line with the changes to the National Performance Framework which were outlined in the Government's White Paper, Strong and Prosperous Communities, published in October 2007. One of the major changes to the National Performance Framework outlined in the White Paper included the replacement of all existing sets of indicators, such as Best Value and Performance Assessment Framework indicators with a new national set of 198 performance indicators. The national performance indicator set reflected the desire for local authorities to work in partnership with other service providers in the area to deliver outcomes for local people. Therefore many of the indicators in the new national indicator set reflected work undertaken for example, by the Police, Primary Care Trust, Jobcentre Plus. The national indicator set was developed as part of the Comprehensive Spending Review 2007 and it was intended that through these measures only, central government would performance manage outcomes delivered by the authority working alone or in partnership.

Options Considered

There were no options considered.

Decision

1. To note the new national indicators set.
2. To approve the timetable and process for developing Derby's Local Area Agreement for 2008-2011.

Reasons

In accordance with Procedure Rule A126, the Chair of the Scrutiny Management Commission had been advised that this item would be considered although not included in the Forward Plan.

Budget and Policy Framework

124/07 Capital Monitoring Update 2007/08

The Council Cabinet considered a report on Capital Monitoring Update 2007/08. Cabinet approved the latest capital programme for the 2007/08 to 2009/10 period at its meeting on 4 September 2007. Since then, the programme had been updated to reflect changes approved through Contract and Financial Procedure Matters reports and individual departmental cabinet reports. This report provided an update on the projected variance on the programme, with a particular focus on risk budgets

Decision

1. To approve changes to the capital programme as set out in paragraph 1.2 and Appendix 2.
2. To approve the addition of the schemes detailed in paragraph 1.3 to the 2007/08 capital programme.
3. To note the projected outturn and variance shown in Table 2.
4. To note the capital risk budgets identified by departments and progress on those schemes. These are listed in Appendix 4.

125/07 Revenue Budget Update 2007/08

The Council Cabinet considered a report on Revenue Budget Update 2007/08. The report set out the Council's latest revenue budget forecast year-end position for 2007/8. To enable Cabinet to keep the budget under constant review the report provided an update on:

- all key risk budgets which were being subject to more detailed monitoring by Cabinet
- the main areas of forecast variance predicted at the year end on other budget areas if current trends continued
- proposals for corrective action or alternative strategies to balance any overspends.

The report identified a net potential £603k over budget at the end of the year for General Fund revenue budgets, which represented a variance of 0.4%. It should, however be noted that within this forecast year-end position the treasury management budget underspend and the inflation contingency budget saving were compensating the large overspending in Adult Social Care budgets. The report also provided a monitoring update on the Housing Revenue Account 2007/8 at Appendix 3. Council Cabinet thanked the Corporate Director Resources for the work undertaken to identify savings within the revenue budget 2007/08.

Decision

To note the latest monitoring position in respect of the General Fund Revenue and the Housing Revenue Account budgets for 2007/8.

Contract and Financial Procedure Matters

126/07 Contract and Financial Procedure Matters Report

The Council Cabinet considered a report on 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:

- extension of Environmental Services agency contract
- Central Procurement Team – increased staffing resource
- ICT contract re-tender – external legal support and procurement advice contract extension
- Strategic Partnering Agreement for building construction and refurbishment.

Decision

1. To extend the Environmental Services agency contract for the supply of casual labour with Taskforce Recruitment Ltd for two additional years from 1 April 2008.
2. To approve the recruitment of a Principal Procurement Officer and Senior Procurement Officer, funded by a contribution of £8,000 from the base budget of each department, together with an allocation of £30,000 per year from the Modernisation Fund for three years.
3. To approve an allocation of up to £100,000 from the Modernisation Fund to support the costs of specialist external legal advice for the ICT contract re-tender.
4. To agree a contract extension under Contract Procedure Rule C31.1 with the NCC Group for procurement advice for the duration of the ICT contract re-tender period.
5. To extend the Strategic Partnering Agreement for building construction and refurbishment for a further two years until 31 August 2009.

127/07 On and Off Street Parking – Proposed Amendments

The Council Cabinet considered a report on On and Off Street Parking – Proposed Amendments. The 2007/08 budget review process, agreed by Council, set increased income targets for parking operations amounting to some £225,000 per annum. These increases were indicated to come from increased charges and also from an increase in the amount of areas where

parking charges apply. The paper set out how this budget commitment could be best delivered.

Decision

1. To approve the increased parking tariffs. The new charges to be effective from beginning of January 2008.
2. To approve the principal of extending pay and display parking and to authorise the Corporate Director, Community and Regeneration, to commence advertisement of necessary Traffic Regulation Orders. The new restrictions to be introduced by 17 March 2008, unless significant objections are received.

128/07 Use of Development Control Action Plan Reserves

The Council Cabinet considered a report on Use of Development Control Action Plan Reserves. The report set out proposals for the use of planning delivery grant – PDG - and the development control – DC - action plan reserve. The Council received planning delivery grant from the Department for Communities and Local Government - DCLG. This grant was allocated on the basis of planning performance in order to provide an incentive for authorities to meet or exceed key performance targets for planning. Planning delivery grant which had not been spent in previous years had been retained in an earmarked reserve. During 2007/08 the Council would receive an allocation of PDG of £284,415 which when added to the reserve would increase the balance available to £849,727. Investment had previously been made in the staffing and resources necessary to exceed the targets for allocation of PDG. Throughout 2007/08 £342,530 of the reserve needed to be spent on the staffing, IT equipment and supporting the Local Development Framework in order to maintain and improve upon this level of performance. 2007/08 was the last year for which PDG would be allocated, DCLG plan to replace it with Housing and Planning Delivery Grant with the emphasis on encouraging authorities to respond to housing pressures. A further report would be brought before Cabinet to consider the use of the reserve in 2008/09 once more detailed information on Housing and Planning Delivery Grant and future planning fee increases became available.

Decision

1. To approve the use of £342,530 from the DC action plan reserve in 2007/08 as set out in Appendix 1.
2. To note existing commitments and planned use in 2008/09 and beyond, which would be considered further in the 2008/9 – 2010/11 budget planning process.

Performance Monitoring

129/07 Council Performance Monitoring – 2007/08 Quarter 2

The Council Cabinet considered a report on Council Performance Monitoring – 2007/08 Quarter 2. The purpose of quarterly performance reporting was to underpin performance management within the Council in terms of monitoring the achievement of the corporate priorities and targets included in our Corporate Plan 2007-2010 and Best Value Performance Plan 2007/08. This report focused on Council performance in the second quarter of 2007/08 – 1 July 2007 to 30 September 2007. Summary performance results from quarter two were as follows...

- 62% of Corporate Plan measures and milestones were on track or had achieved their quarterly target, with 15% failing to meet quarterly target by more than 5% or major slippage occurring.
- 82% of Best Value Performance indicators were forecasting to achieve their yearend target, with 11% likely to miss the year-end target by more than 5%. 55% met the quarterly target set, 24% had missed the target by more than 5%.

The report also includes an update on the 2007 Manifesto Commitments. As in 2006/07, a separate quarterly monitoring report is produced for Cabinet on Partnership / Local Area Agreement performance. The supporting tables for Council performance indicators could be found on CMIS at <http://cmis.derby.gov.uk/CMISWebPublic/Meeting.aspx?meetingID=1371> .

Decision

1. To note the performance of the Council against the targets included in its 2007/08 Best Value Performance Plan and 2007-10 Corporate Plan, falling due to be reported in the second quarter.
2. For highlighted areas of underperformance, to request action plans from Heads of Service for service improvements with key delivery milestones and regular updates in reporting against these plans.
3. To note that, where appropriate, Performance Surgeries would be held to explore reasons for poor performance and action planning for improvements.

130/07 Local Area Agreement Performance Monitoring – 2007/08 Quarter 2

The Council Cabinet considered a report on Local Area Agreement Performance Monitoring – 2007/08 Quarter 2. The purpose of quarterly

performance reporting was to underpin performance management within the Council in terms of monitoring the achievement of our Local Area Agreement - LAA - and Local Public Service Agreement - LPSA2 - targets. The LAA included all targets from our LPSA2, which runs from April 2005 to March 2008. This report focused on performance and financial outturn information against Partnership outcomes in the second quarter of 2007/08 – 1 July to 30 September 2007. The supporting information tables showed a summary of performance for each Derby City Partnership ‘City’ as well as a more detailed view of both performance and funding information under their related city and then portfolio. These could found on CMIS at <http://cmis.derby.gov.uk/CMISWebPublic/Binary.ashx?Document=10272> .

Of the 166 LAA indicators, 63 were due to be reported in quarter two. Of the 63 indicators for which quarter two data and quarterly targets were available, 69% were green, denoting that they were on course to meet or exceed the quarterly target and 24% were red, meaning they were 5% adverse to the quarterly target. As in 2006/07, a separate quarterly monitoring report was produced for Cabinet on progress against the Council’s Corporate Plan and other performance measures not included in the Local Area Agreement

Decision

1. To note the performance of the LAA indicators against the 2007/08 quarter two targets including the Local Public Service Agreement quarterly targets.
2. To give particular attention to those areas where performance was below target, particularly those that were red - more than 5% adverse to quarter one targets.

131/07 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 Decision

132/07 Housing Private Finance Initiative – PFI – Project: De-selection of Bidder

The Council Cabinet considered a report on the Housing Private Finance Initiative Project. The three bidders for the Council's Housing PFI Project had submitted their proposals for delivery of the project in response to considering the Authority's requirements.

The Council's Project Team having now concluded its objective evaluation of the proposals the 'Detailed Solutions' had recommended to the Project Board that one of the bidders should be de-selected.

Options considered

1. To de-select two of the three Bidders and move straight to appointment of the Preferred Bidder.
2. This option had some attractions, particularly in terms of the timetable, but was not recommended at this stage.
3. To do so would remove the competitive dimension of the process, which has the potential, amongst other factors, to secure the most favourable and appropriate arrangements for the Council.
4. In addition, such a move would almost certainly require the approval of CLG (and possibly also Partnerships UK) which would cause further, probably significant delays to the timetable and implementation of the Project.

Decision

1. That in light of the scores arising from the evaluation of Bidders Detailed Solutions and the need to move to the next stages of appointing the Council's preferred Bidder, Home should be de-selected from the procurement process.
2. That Home should be formally notified of this decision and that an offer of feedback on the reasons for the decision should be made to Home Bid Team.
3. That each of the two remaining Bidders should be informed that one of the three Bidders had been de-selected and that there would therefore be two Bidders continuing to the next stages of the PFI procurement process.

Reasons

1. Everything possible should be done to minimise the risk of delays in reaching Financial Close – Contract signature in due course with the Council's Preferred Bidder, in order to contain the Council's costs and ensure implementation of the Project at the earliest appropriate point.
2. In that context and within the terms of the procedure being followed, the Council's Project Team and Project Team and Project Board were satisfied that following the evaluation of all three sets of proposals, Home had scored the lowest overall percentage and should therefore be de-selected.

MINUTES END