

Time began 6.00pm  
Time ended 6.36pm

**COUNCIL CABINET  
8 JUNE 2010**

Present: Councillor Jennings (Chair)  
Councillors Grimadell, Hickson, Holmes, Ingall,  
Marshall, Poulter and Williams

In attendance Councillor Bayliss and Jones

This record of decisions was published on 10 June 2010. 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.

**01/10 Apologies for Absence**

There were no apologies for absence.

**02/10 Late Items Introduced by the Chair**

There were no late items.

**03/10 Identification of Urgent Items to which Call-In  
will not apply**

The following items had to be implemented with immediate effect. The Chair of the Children and Young People Commission had agreed they it could be treated as urgent items and therefore not subject to call-in for the reason outlined below:-

**08/10 Building Schools for the Future**

Derby's Building Schools for the Future programme is at a critical stage with the pending appointment of the preferred bidder. It is important for the preferred bidder to be appointed as quickly as possible to ensure Derby's Building Schools for the Future Programme remains on target, and meets the externally imposed BSF deadlines.

In view of the pressures on public spending, it is even more important for Derby's programme to meet deadlines set, and appoint the preferred bidder in June and then progress with reaching financial and contract close in October 2010, as scheduled.

The reason we need to suspend the call- in period is to ensure Derby's programme continues to meet the deadlines set by Partnerships for Schools, which is the national body responsible for delivery of BSF Programmes, and that the preferred bidder is selected in June.

**10/10 Proposed to Close Merrill College and re-open it as a National Challenge Trust School**

The six week consultation period needs to start immediately to enable the proposal to be implemented from the start of the autumn term in September 2010. Anyone wishing to object to the proposal following the Council Cabinet meeting will be able to do so as part of the consultation.

**04/10 Declarations of Interest**

Councillor Hickson declared a personal and prejudicial interest in item 7 because he was the member nominated by the Planning Control Committee to appear at the forthcoming appeal. Councillor Holmes declared a personal interest in item 11 because he worked at the Royal Derby Hospital.

**05/10 Minutes of the meeting held on 20 April 2010**

The minutes of the meeting held on 20 April 2010 were signed as a correct record and signed by the Chair.

**Matters Referred**

**06/10 Strategic Decisions on the Future of Markeaton Crematorium**

The Council Cabinet considered a report on Strategic Decisions on the Future of Markeaton Crematorium. At the beginning of 2010 the proposed capital programme for the Environmental Services Department included: 'the replacement of cremators at Markeaton Crematorium, which were required to be changed to meet new legislation on emissions by 2012. Total costs were expected at around £1.9m'. A number of concerns were raised during scrutiny of the proposals by the Community Commission in January and February. The result was the making of the following recommendation to Council Cabinet: 'To recommend this capital scheme of £1.9m only be finalised by Cabinet following the report of the sub-group established by the Community Commission'. This was accepted. The Sub Group comprised Councillors Grimadell, Leeming and Lowe plus Councillor Baxter. This urgent scrutiny review was completed in April with the forming of the conclusions and recommendations in the report 'Strategic Decisions On The Future Of Markeaton Crematorium' at Appendix 2 of the report.

**Decision**

To receive the report and request a detailed report to a future meeting.

## 07/10 Contract and Procurement with RRS Waste Management

The Council Cabinet considered a report which stated that Planning Control Committee rejected Resource Recovery Solutions' (RRS) planning application for the Sinfin Lane waste treatment facility in December 2009. At the Direct and Internal Services Cabinet Member Meeting 2 March 2010 the Cabinet member agreed to provide financial support to RRS for their appeal. Audit and Accounts Committee reviewed this decision on 1 April 2010 and made a referral to Cabinet on 20 April 2010.

### **Decision**

To reaffirm the existing delegated authority to the Strategic Directors of Neighbourhoods and Resources, in consultation with the Cabinet Member for Neighbourhoods, to agree to move to financial close of the contract with RRS Ltd at a time felt to be most beneficial for the Council in line with the Council Cabinet decision of 21 April 2009.

(Having declared a personal and prejudicial interest in the above item Councillor Hickson left the meeting during the consideration and voting thereon.)

## Key Decisions

### 08/10 Building Schools for the Future

The Council Cabinet considered a report on Building Schools for the Future. Building Schools for the Future (BSF) was a huge opportunity to transform secondary education with significant capital investment. All schools with secondary age pupils were included in the programme. For Derby, funding had been confirmed as £206m to replace or renovate secondary schools, plus an additional £25m specifically for ICT. The planning and development for BSF had been underway for over two years, and the programme remains on target. An important milestone was reached in March 2009 with government approval for BSF to enter the procurement phase, and commence the complex process of appointing a private sector partner to deliver BSF. As required by procurement regulations, a formal notice was published in the Official Journal of the European Union (OJEU) inviting interested parties. The BSF procurement process followed a national approach based on competitive dialogue split into two stages. Derby's first stage of dialogue, with the three short listed bidders, closed on 27 August 2009. During this first stage of dialogue, the BSF Dialogue Teams met with each bidder in developing proposals. At the end of this stage of dialogue, as required, all three bidders submitted initial bids and the lowest scoring bidder was de-selected. The two remaining bidders – Balfour Beatty Education and Vinci Education - moved through to the second stage of dialogue and submitted their final bids in April 2010. A complex and detailed evaluation process based around the BSF

standard evaluation criteria then took place. The evaluation was made up of a quality assessment and a cost assessment. The proposal was for the bidder with highest overall score to be appointed as the Council's preferred bidder. It was anticipated that contractual and financial close would be completed in October 2010.

### **Options Considered**

The proposal to appoint the highest scoring bidder was in accordance with Partnership for Schools (PfS) requirements, therefore other options had not been considered. There was also a specific government requirement to establish a LEP as the default position for BSF programmes.

### **Decision**

To consider the appointment of the highest scoring bidder as detailed in the confidential report.

### **Reasons**

The highest scoring bidder must be appointed as the Council's preferred bidder. The proposal was to appoint the highest scoring bidder, evaluated against the scoring and evaluation criteria, which was issued to all bidders.

## **09/10 List of Approved Contractors for Building, Demolition, Electrical and Mechanical Works**

The Council Cabinet considered a report on List of Approved Contractors for Building, Demolition, Electrical and Mechanical Works. The report sought approval to a list of building contractors, demolition contractors, electrical contractors and mechanical contractors that had been checked for technical, financial, health and safety and other relevant competencies, from which tender lists for Council projects could be selected.

### **Options Considered**

There were no options considered.

### **Decision**

1. To approve the list of contractors included at Appendices 2 to 5 of the report.
2. To note that those contractors recommended for exclusion from the list are included in Appendix 6 in the confidential section of the Agenda
3. To delegate approval of contractors to be added / deleted to the list at the annual review to the Chief Executive in consultation with the relevant Cabinet Member and the Strategic Director of Resources.

## **Reasons**

There were no reasons.

In accordance with Procedure Rule AI26, the Chair of the Community Commission had been advised that this item would be considered although not included in the Forward Plan.

### **10/10 Proposal to Close Merrill College and re-open it as a National Challenge Trust School from September 2010**

The Council Cabinet considered a report on Proposal to Close Merrill College and re-open it as a National Challenge Trust School from September 2010. In April 2010 the Council received approval from the Minister of State for Schools and Learners, Vernon Coaker, for its proposal to convert Merrill College to a National Challenge Trust school, with Derby College acting as the lead educational partner. The Minister made this approval conditional on the Council taking action to re-launch the school by closing the existing school prior to immediately reopening within its existing premises as a National Challenge Trust (NCT) School in September 2010. At his Formal Cabinet Member Meeting on 13 April 2010 the Cabinet Member for Children and Young People approved the commencement of consultation on the re-launch of Merrill College involving statutory closure and immediate re-opening. A consultation paper on the proposal was circulated to key stakeholders and interested parties including teachers, Governors, parents of pupils, trade unions and ward members. The report covered the outcomes of the consultation and a summary of responses received during the consultation period was set out in Appendix 2 of the report. A copy of the consultation document was attached as Appendix 3 to the report.

## **Options Considered**

Consultation had taken place on a proposal to re-launch Merrill College as National Challenge Trust School. If the final decision of the Council, or of the Schools Adjudicator, was not to approve the proposal, then it was possible that the Secretary of State with responsibility for schools would use his/her powers under the 2006 Education and Inspections Act to instruct the Council to commence a different structural intervention. Given the urgent need to bring about improvement, taking no action was not considered an option.

## **Decision**

1. To approve the publication of a statutory notice on the proposal to close Merrill College and re-open it as a National Challenge Trust school from 1 September 2010 and simultaneously establish the related Trust.

2. To approve delegation of authority to the Strategic Director for Children and Young People to forward the proposal to the Schools Adjudicator for a final decision, subject to no objections being received during the statutory representation period. If objections are received it is proposed that these are considered by Council Cabinet prior to making the final decision on whether or not to proceed with the proposal.

### **Reasons**

1. Urgent action was needed to improve Merrill College and the prospects for students. The proposal to re-launch the school through closure and re-opening as a NCT school had been subject to consultation with all key stakeholders. It was now necessary to consider publication of a statutory notice in order for the proposal to progress to the next stage.
2. There were clear benefits to be gained in converting Merrill to a NCT as outlined in paragraph 4.8 of the report.

## **11/10 Leisure Facility Strategy**

The Council Cabinet considered a report which updated members on the implementation of the Leisure facility Strategy. The following recommendations had already been implemented since the formal approval was obtained for the project:

- Funding had been provisionally allocated within the Council's revenue budgets and capital programme for 2010/11 and beyond
- A site option appraisal had been undertaken to identify a short list of preferred locations for the provision of the indoor and outdoor hub facilities.

Proposals were included in the report to start on the implementation of the project which would lead to the various stages from preparatory work, procurement and delivery, through to the future operation and sustainability of the new leisure facilities.

### **Options Considered**

There were no options considered.

### **Decision**

1. To recommend that a more detailed evaluation be undertaken on the two preferred sites for each of the indoor and outdoor hubs so that procurement of the hubs could be progressed.
2. To approve a contract waiver in order to retain the services of PMP Genesis at a cost of a maximum £45,000 on the basis:

- this would not impact on OJEU rules as it represented a total contract value for PMP well short of the OJEU limits;
  - PMP will support the first phase of the project and provide specialist leisure capital expertise to support the project board, project manager and the client officer;
  - the costs would be financed through the project budget.
3. To appoint a manager from Asset Management to manage the project on a day to day basis as well as to support the project board and the Head of Leisure Facilities as client.
  4. To establish a project board, chaired by the Strategic Director of Neighbourhoods, with the Cabinet Member for Leisure and Culture and representatives from planning, regeneration, property, procurement, leisure and finance that would oversee the delivery of the project.

### **Reasons**

There were no specific reasons given.

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

## **Contract and Financial Procedure Matters**

### **12/10 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 capital programme
- use of corporate revenue reserves
- approve an increase in the Crematorium's mercury abatement charge
- to approve changes to the Scheme for Funding Schools
- to approve a waiver of Contract Procedure Rules, Competition Requirements and Contract Extensions
- to note additional grant allocations and approve increases in departmental revenue budgets
- to approve a modification to the Council's investment strategy
- to note the effect of public sector spending cuts announced by Government.

### **Decision**

1. To approve and note the following changes in relation to the capital programme:
  - to approve the changes detailed in Appendix 2 of the report and to amend the 2010/11 – 2012/13 capital programme
  - to note the revised capital programme and associated funding detailed in Table 1 for 2010/11 at paragraph 3.1 of the report
  - to recommend to Council the approval of the additional borrowing requirement for the Nottingham Road Cemetery path improvement scheme, as set out in paragraph 3.5 and in 2012/13 for the BSF highways scheme as set out in paragraph 4 of the report
  - to note the additional £62,000 grant from English Heritage towards the building frontage enhancement scheme in the city centre and the reallocation of £62,000 match funding required from the Public Realm Contingency Fund as detailed in paragraph 3.6 of the report
  - to approve scheme commencements for the schemes in the capital programme detailed in Appendix 3 of the report.
2. To approve a transfer of £150,000 from New Deal for Schools Modernisation Fund that was currently allocated to the Building Schools for the Future – BSF - scheme to support highways related work, to a scheme to support property adaptations for foster carers; and to approve the funding of the BSF highways related work through unsupported borrowing as detailed in paragraph 4 of the report.
3. To approve the use of £120,000 from the ‘council properties backdated business rates corporate revenue reserve’ to fund a temporary principal officer, Asset Surveyor post, for a fixed term of three years to undertake an area based asset review as detailed in paragraph 5 of the report.
4. To approve the use of £59,622.31 from the ‘council properties backdated business rates corporate revenue reserve’ to fund revenue costs associated with the Accommodation strategy as detailed in paragraph 6 of the report.
5. To approve an increase from April 1 2010 in the Crematorium’s mercury abatement charge for 2010/11 and the transfer of income into a mercury abatement reserve as detailed in paragraph 7 of the report.
6. To approve the changes to the Scheme for Funding Schools in relation to surplus balances and to take effect from the 2009/10 outturn as detailed in paragraph 8 of the report.
7. To approve a waiver of Contract Procedure Rule 8, Competition Requirements, and award a contract to ‘A plus Education’ to the value of £96,000 to deliver an audit of all foundation stage providers as set out in paragraph 9.1 of the report.

8. To approve a waiver of Contract Procedure Rule 47 – Contract Extensions – to approve a contract extension with Springboard to the value of £10,550 for pedestrian monitoring cameras in the city centre for one year as detailed in paragraph 9. 7 of the report.
9. To note the additional grant allocations and approve the increased expenditure and income as set out in paragraph 10 of the report relating to the 2010/11 Area Based Grant.
10. To approve a modification to the Council’s investment strategy whereby, whenever cash surpluses were less than £1m and the Bank of England’s Debt Management Office (DMO) is the only overnight investment option, to leave the surplus balance overnight with the Co-operative Bank.
11. To note the impact on Council funding in 2010/11 as a result of the recent announcement in public sector spending cuts.

## 13/10 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 items of the grounds that they involve 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

### 14/10 Building Schools for the Future

The Council Cabinet considered exempt information in relation to Building Schools for the Future

#### **Decision**

To approve the appointment of the highest scoring bidder to deliver Derby’s Building Schools for the Future programme.

### 15/10 List of Approved Contractors for Building, Demolition, Electrical and Mechanical Works

The Council Cabinet considered exempt information in relation the List of Approved Contractors for Building, Demolition, Electrical and Mechanical Works.

**Decision**

To approve that those contractors included in appendix 6 of the report be excluded from the approved list.

MINUTES END