



Contract and Financial Procedure Matters Report

SUMMARY

- 1.1 This report deals with the following items that require reporting to and approval by Council Cabinet under Contract and Financial Procedure rules:
- To approve proposed changes to the capital programme and new capital scheme commencements
 - To approve in year Section 106 allocations
 - To note a potential funding agreement with East Midlands Development Agency
 - To approve a revenue/capital funding switch
 - To approve the use of a Homes and Communities Agency's Delivery Partner Panel Framework Agreement
 - To approve a budget transfer between Directorates
 - To approve use of the budget risk reserve to fund the costs on the former Hippodrome Theatre site.

RECOMMENDATIONS

- 2.1 To approve the changes to the 2010/11 – 2012/13 capital programme as shown in appendix 2.
- 2.2 To note the revised capital programme and associated funding detailed in Table 1 on page 2 for 2010/11.
- 2.3 To approve scheme commencements for the schemes detailed in Appendix 3 and recommend to Full Council the additional borrowing of £1.3m for the new Primary phase enhanced resources unit for autistic spectrum disorder pupils.
- 2.4 To approve the in year Section 106 allocations as detailed in paragraph 3.8.
- 2.5 To note the potential funding agreement with East Midlands Development Agency for European Regional Development Fund funding for Friargate Studios as detailed in paragraph 3.6
- 2.6 To approve the revenue/capital funding switch for surface car parks resurfacing as detailed in paragraph 3.7.
- 2.7 To approve the proposed use of the Homes and Communities Agency's Delivery Partner Panel Framework Agreement as set out in paragraph 4.1

- 2.8 To approve a budget transfer from Neighbourhoods to Resources Directorate as outlined in paragraph 5.1
- 2.9 To approve £100,000 from the budget risk reserve to fund costs at the former Hippodrome theatre site as detailed in paragraph 6.1

SUPPORTING INFORMATION

3.1 Changes to the Capital Programme

The latest approved capital programme as at 27 July Cabinet was £128.8m. Various changes are now required to reduce this total by £8.7m making a revised capital programme total of £120.1m, significant changes are detailed in paragraph 3.2 below. Table 1 shows the changes and revised 2010/11 programme.

Table 1 - Revised Capital Programme 2010/11

Programme	Latest Approved (27 July Cabinet plus outturn slippage) Capital Programme £000's	Further Revisions (Appendix 2) £000's	Revised Programme £000's
Children and Young Peoples Department	33,423	-6,326	27,097
Neighbourhoods	32,652	-1,864	30,788
Adult Social Care & Housing	30,051	-401	29,650
Resources – e Services	2,856	-143	2,713
Chief Executive	29,869	18	29,887
Total Programme	128,851	-8,716	120,135
Funding 2010/11			
Supported Capital Expenditure (Revenue)	7,807	-4,263	3,543
Supported Capital Expenditure (Capital)	34,891	-3,952	30,939
<i>Unsupported borrowing</i>			
Corporate Programme	21,414	-1,229	20,185
Service Financing	1,631	50	1,681
Service Financing Spend to Save	1,865	75	1,940
Housing major repairs allowance	8,273		8,273
Government grants	23,074	161	23,235
Capital receipts	11,127	57	11,184
External contributions	2,895	228	3,122
Lottery	0		
Capital Reserves	639	-21	618
Revenue/Revenue Reserves	14,027	-154	13,873
S106 External Contributions	1,209	333	1,542
Total Funding	128,851	-8,716	120,135

3.2 Details of the changes are shown in Appendix 2 with a summary of some of the larger changes highlighted below ...

- Various reallocations within the CYP programme to utilise the basic needs funding source, primary capital programme funding source, and the children's centre funding source. Other significant CYP changes are:
 - Arboretum Primary Capital Programme change of £707k due to tender coming in well below budget.
 - Becket Primary Playing Field reinstatement reducing by £240k as scheme coming in under budget.
 - Extended Schools Capital funding source withdrawn £232K.
- Friar gate goods yard £213k addition as part of the connecting derby scheme funded from an external contribution.
- Various reallocations within the Local Transport Plan.
- Chaddesden Park Library £1.1m rephased to 2011/12 to reflect the timing of the actual construction works which are scheduled for 2011/12.
- Various reallocations within the housing programme.

Changes to the 2010/11 capital programme have a knock on effect on the indicative programme for 2011/12 – 2012/13. The summary revised totals by department for the indicative programme are shown in Table 2.

Table 2 - Revised Indicative Programme 2011/12 - 2012/13

Programme	2010/11	2011/12	2012/13
	£000	£000	£000
Children and Young Peoples Department	27,098	59,071	98,140
Adult Social Care & Housing	29,650	17,189	11,362
Resources – e Services	2,713	0	0
Neighbourhoods	30,788	19,203	57,876
Chief Executive	29,887	23,698	9,750
Revised Programme	120,136	119,161	177,128

The figures shown for 2011/12 – 2012/13 are the indicative budgets approved by Council on 1 March 2010 altered for any rephasing reported at previous cabinets and shown in Appendix 2.

3.4 **Scheme Commencements**

Scheme commencement approval is requested for the following schemes, with further details in Appendix 3.

- Meadow Farm Primary Capital Programme
- New primary phase enhanced resources (ER) unit for autistic spectrum disorder (ASD) pupils
- Learning platform primary capital programme
- Contribution to the 'Umbrella' project
- An early years extension at Brookfield Primary School
- An allocation for feasibility works for 2011/12 schools schemes
- Friar Gate goods yard.

3.5 Cabinet is asked to approve the additions and amendments to the 2010/11 – 2012/13 capital programme and to agree scheme commencement for the schemes listed in Appendix 3 and to recommend to Full Council the addition of borrowing of £1.3m for the new Primary phase enhanced resources unit for autistic spectrum disorder pupils which will be repaid from Children and Young People base budgets over a number of years

3.6 **Other Issues** **Chief Executives Directorate** **Friargate studios**

Additional funding has been sought and secured from the East Midlands Development Agency for £594k of European Regional Development funding to enhance Friargate Studios that will hopefully improve lettings and increase letting income. The works will include remediation of the acoustic performance between offices, improvements to the security of the building and improvements to the health and safety/hygiene facilities in the building. This funding will be in addition to the £150k Local Public Service Agreement funding and £116k unsupported borrowing previously agreed by Cabinet taking the total scheme cost to £860k.

Cabinet is asked to note the potential funding agreement with EMDA for the £594k ERDF funding.

3.7 **Neighbourhoods Directorate**

The Neighbourhoods Directorate have been awarded a Department for Transport 3 Cities capital grant of £150,000 to fund an agreed revenue project plan. To ensure the grant is used for the correct classification of expenditure and the agreed project plan is delivered that secured the funding; there is a requirement to switch the funding with an alternative source to satisfy audit guidelines and capital accounting rules. Confirmation has been received from the Department for Transport that this funding is not ring fenced.

The Surface Car park resurfacing scheme of £562,000 was approved at Council Cabinet on 16 February 2010. This scheme is a capital scheme funded from revenue budget. Contract and Financial Procedures Matters report 6 July 2010 reallocated £385,000 of this to Local Transport Schemes leaving a balance of

£177,000 still funded by revenue budget. The flexibility of this funding allows £150,000 of this allocation to be swapped with the 3 Cities Drainage capital grant of £150,000 to ensure the continuity of the Neighbourhoods revenue programme using the appropriate funding.

Cabinet is asked to approve the capital/revenue funding switch within the surface car park resurfacing scheme.

3.8 Section 106 Contributions

It was agreed through the Section 106 working group that any allocation of Section 106 monies would be reported to Cabinet during the year to inform members what specific contributions are intended to be used for.

3.9 Table 2 below details four such new allocations for Neighbourhoods and Children and Young People's Directorates for three schemes.

Table 2 Section 106 In Year Allocations

Directorate	Scheme	Developer	Site	Ward	Amount £	Sec 106 Ref
N/hoods	Connecting Derby	T C Harrison	Normanton Road/Charwood St junction	Arboretum	30,000	TCHa1-01
N/hoods	Strategic Integrated Transport	Riverside Housing Association	582-584 Osmaston Road	Sinfin	3,500	Osma3-02
N/hoods	Strategic Integrated Transport	Conder Developments Ltd	Ascot Business Park	Alvaston	11,500	Long2-01
CYP	Markeaton Primary Capital Programme Scheme	Miller & Taylor Woodrow	Highfields, Broadway	Darley	327,000	Hfld1-02
Total Section 106 Contributions allocated					372,000	

4 **Homes and Communities Agency Delivery Partner Panel Framework Agreement**

- 4.1 In 2009, the Homes and Communities Agency - HCA - procured a delivery partner panel to act as a 'one-stop-shop' to enable procurement of development management services, physical development and construction. The panel has been made available to local authorities and other public sector bodies and can be used to help deliver a range of initiatives. The Framework Agreement covering the panel has been procured through a fully compliant OJEU process and will provide an opportunity for speeding up the procurement process and possibly accessing new funding sources and delivery partners from the private sector.
- 4.2 With this in mind, it is proposed that the City Council utilises this panel to secure a private sector partner to assist in taking forward regeneration in Osmoston. A key initial commission for an appropriate panel member will be to undertake economic appraisal of the "broad brush" options contained within the current indicative master plan for the area. This in turn will enable the content of a future regeneration programme to be determined and provide the necessary basis to support funding bids not only to the HCA but also other external funding organisations and potentially the private sector.
- 4.3 For 2010 to 2013 the Panel, comprises eighteen companies of proven financial standing and with a range of development skills. All works and services procured under the framework contract will be subject to individual project-specific contracts, negotiated as part of a mini competition process to be held by the HCA in conjunction with the local authority. These will be used to define the detailed project-specific requirements for development works or services and forms of contract could be in the form of Joint Contracts Tribunal - JCT - or New Engineering Contract - NEC - forms of contract or other standard or bespoke forms of services, works or development contracts. The mini-competition managed by the HCA leading to the award of a contract and signing up to a Project Agreement will follow the procedure set out in Appendix 4 attached.

5 **Scheme of Virement – Revenue Budgets**

- 5.1 The reorganisation of the former Environmental Services Department has provided an opportunity to relocate the purchasing staff into the central procurement unit within Resources Directorate. This will enable a more effective use of resources.

Under financial regulations cabinet approval is required where it is proposed to transfer budgets where they are managed by different Strategic Directors or areas under the responsibility of different Cabinet Members. Approval is requested to transfer £46,437 from Neighbourhoods to Resources Directorate.

6 Former Hippodrome Theatre site

- 6.1 Recent assessments carried out on the former Hippodrome theatre by the Council's structural engineer in May 2010 and by structural engineers on behalf of English Heritage in July 2010 confirms that whilst the external elevations remain relatively stable, an exclusion zone continues to be essential to keep the public at a safe distance from the building and restrict access to the building, both in terms of safety and protecting the building.
- 6.2 It has long been recognised that the current herras fencing surrounding the Hippodrome is inadequate as a long term solution for protecting the public and the building and in December 2010 the Council obtained a magistrates court order, under its Building Act powers requiring the owner to erect a more secure hoarding. The owner has failed to do so and the Council therefore has default powers to erect the hoarding.
- 6.3 The state of the building and the continuing need for an extensive exclusion zone on Macklin Street also raises issues in terms of the Council's responsibilities as highway authority for preventing obstruction and for ensuring highway users are adequately protected, particularly in view of the need to reopen Macklin Street for vehicular traffic as part of Connecting Derby. The recent refusal to grant planning permission which sought to retain the Macklin Street elevation as a key feature of the building will mean that the building is likely to deteriorate and raises concerns in terms of protecting the building.
- 6.4 Officers have looked at various schemes to improve safety issues related to the exclusion zone on both Crompton Street and Macklin Street, having regard to the reopening of Macklin Street to enable use by vehicles and protection and preservation of the building. The options identified as most appropriate are; in terms of Macklin Street to carry out works that would make safe and protect the building removing the need for any barrier on the highway; and in terms of Crompton Street to construct scaffolding and hoarding along the side of the building costing respectively at approximately £60,000.00 and £30,000.00. The works would also include minor works to make safe elements of the building on Green Lane as recommended by the structural engineer.
- 6.5 Recovery of financial costs by the Council will be sought from the current owner or where possible secured by a local land charge. Should these costs not be recovered then it is proposed to fund the works from the budget risk reserve.

For more information contact:	Alison Parkin, Head of Finance for Children and Young People 01332 716872 e-mail alison.parkin@derby.gov.uk
Background papers:	None
List of appendices:	Appendix 1 – Implications Appendix 2 – Summary of changes to the capital programme Appendix 3 – Scheme Commencements Appendix 4 – Project Agreement procedure

IMPLICATIONS

Financial

1.1 As outlined in the report.

Legal

2.1 As outlined in the report.

Personnel

3.1 As outlined in the report.

Equalities Impact

4.1 As outlined in the report.

Corporate objectives and priorities for change

5.1 These recommendations, where relevant, are in line with approved budgets which accord with the Council's corporate priorities.

Appendix 2

Summary of further changes to the capital programme 2010/2011	Latest Approved Capital Programme 2010/11 £000	Revised Capital Programme 2010/11 £000	Change £000	Category
Children & Young Peoples Department				
Meadow Farm Primary Capital Programme Scheme	-	25	25	R2
New Primary Phase Enhanced Resources (ER) Unit for Autistic Spectrum Disorder (ASD) Pupils	-	75	75	A
Various schools - encapsulation/removal of asbestos containing materials from boiler houses	381	75	(306)	R2
Various schools Fire Precaution Works following FRA	1,500	1,535	35	R2
Various clasp Mark 4/4b school buildings	47	-	(47)	R2
School Glazing repair & replacement	87	-	(87)	R2
Boiler Replacement Programme - various Schools	300	158	(142)	R2
Pear Tree Infant School replacement of two boilers	100	84	(16)	R2
Essential Capital Maintenance	35	-	(35)	R2
BSF associated highways works	-	-	0	R2
Grampian Primary School replacement of defective pitched and flat roof coverings	149	53	(96)	R2
Arboretum Primary Capital Programme	2,364	1,657	(707)	R2
Becket Primary Playing Field reinstatement	405	165	(240)	R2
St Andrews' Special School - provide two additional temporary classrooms	153	53	(100)	R2
Learning Platform Primary Capital Programme Scheme	-	300	300	R2
Remaining Primary Capital Programme Schemes (Detailed design to be completed)	-	225	225	R2
Extended Schools (funding source)	233	1	(232)	R2
Brackensdale Infant replacement boiler & controls	300	121	(179)	R2
Markeaton Primary School replacement windows	138	108	(30)	R2
Alvaston Junior School - replacement of defective North lights to roof of main building & replacement felt covering	70	20	(50)	R2
Primary Capital programme (funding source)	482	-	(482)	R2
Basic Needs (funding source)	3,786	-	(3,786)	R2
NDS Modernisation (funding source)	770	185	(585)	R2
Design and tendering works for 2011/12 schemes	-	100	100	R2
Unallocated Childrens Centre Capital Funding (Phase 3)	508	-	(508)	R2
Unallocated Sure Start Early Years Capital Grant	861	1,230	369	R2
Early Years Extension at Brookfield Primary	-	130	130	R2
Austin / Sunnyhill Surestart ventilation works	-	-	9	R2
Firs Estate Boiler Scheme	-	35	35	R2
Alvaston Junior School - SAI make ramp compliant	-	14	14	R2
Osmaston Allenton Surestart SAI contribution to entrance system	-	5	5	R2
Walbrook Nursery SAI Removal of step - level access to outdoor area	-	20	20	R2
Schools Access Initiative (funding source)	426	387	(39)	R2
Total changes to Children & Young Peoples Department	13,096	6,770	(6,326)	

Chief Executive's Department				
C003024 - Building Frontage Enhancement Scheme	535	557	22	R2
Friar Gate Studios	6	2	(4)	R1
Total changes to Chief Executive's Department	541	559	18	
Neighbourhood				
Local Transport Plan (LTP)				
LTP allocation still to be be distributed	174	174	-	R2
Strategic Integrated Transport	531	486	(45)	R2
Smarter Choices	101	61	(40)	R2
Strategic Public Transport Improvements	960	772	(188)	R2
Local Safety & Accessibility Improvements	1,307	1,132	(176)	R2
Strategic Transport Management & Demand Restraint	1,029	827	(202)	R2
LTP - Cycle Derby	234	230	(4)	R2
Specific Road Safety Grant	151	76	(75)	R2
Maintenance of Transport Infrastructure	3,016	2,715	(301)	R2
LTP - Other				
Connecting Derby	10,800	10,815	15	R2
Friar Gate goods Yard		213	213	A
Non LTP				
Chaddesden Park Library	1,132	20	(1,112)	S
Closed Landfill Site - Gas Venting equipment	-	50	50	A
Total changes to Neighbourhoods	19,435	17,570	(1,864)	
Resources				
ICT Infrastructure	250	107	(143)	S
ICT Transformation Contract	1,401	2,000	599	R2
Laptop/Tablet refresh	599	-	(599)	R2
Total changes to Resources	2,250	2,107	(143)	
Adult Social Care and Housing				
Contribution to HGF	200	-	(200)	R2
Disabled Facilities Grant (DFG)	900	1,600	700	R2
Landlord Accreditation Assistance	30	0	(30)	R2
Regional Loans Fund Pilot - CESP	500	530	30	R2
Decent and Safe Homes (DASH)	523	385	(138)	R2
Empty Property Assistance	104	144	40	R2
Group Repair programme	1,792	989	(803)	R2
Total changes to Adult Social Care and Housing	4,049	3,648	(401)	

TOTAL CHANGES TO PROGRAMME	39,371	30,654	(8,717)	
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Key of Categories	
A	Additional schemes from new funding secured
A1	Scheme increase funded by previous years reserves income
S	Re-phasing
R1	Other Adjustments - Scheme Reductions/Increases
Re-allocation:	
R2	Within Department's programme
R3	To different Departments programme

Scheme Commencements

Approval is sought for the following scheme commencements. Proposed funding details are shown below.

- *Meadow Farm Primary Capital Programme Scheme*

Budget	£'000
2010/11	25
2011/12	535
2012/13	20
Total Expenditure	580
Funding	
SCE C Primary Capital Programme	580
Total Funding	580

- *New Primary Phase Enhanced Resources (ER) Unit for Autistic Spectrum Disorder (ASD) Pupils*

Budget	£'000
2010/11	75
2011/12	1,179
2012/13	46
Total Expenditure	1,300
Funding	
Unsupported Borrowing Spend to Save	1,300
Total Funding	1,300

- *Learning Platform Primary Capital Programme Scheme*

Budget	£'000
2010/11	300
Total Expenditure	300
Funding	
SCE C Primary Capital Programme	300
Total Funding	300

- *Contribution to Umbrella funded from Short breaks for disabled children*

Budget	£'000
2010/11	100
Total Expenditure	100
Funding	
SCE C Short Breaks For Disabled Children Grant	100
Total Funding	100

- *Early Years extension at Brookfield Primary School*

Budget	£'000
2010/11	130
Total Expenditure	130
Funding	
SureStart and Early Years Capital Grant	130
Total Funding	130

- *Design and tendering works for 2011/12 schools schemes*

Budget	£'000
2010/11	100
Total Expenditure	100
Funding	
NDS Modernisation	100
Total Funding	100

- *Friar Gate Goods Yard (Part of Connecting Derby)*

Budget	£'000
2010/11	228
Total Expenditure	228
Funding	
External Contribution from Clowes Developments	228
Total Funding	228

Project Agreement Procedure

1. Tender brief submitted to the HCA by Local Authority.
2. An email or phone call from the HCA Procurement Unit to all companies that feel capable and available for the project from the 18 Delivery Partner Panel - DPP - members, describing an outline of the project to gauge interest.
3. Project Specific Prequalification Statement. This is a mini-tender prequalification exercise or informal Expressions Of Interest stage inviting all DPP members who are interested in bidding to submit some basic proposals – this is a ‘sifting brief’ which will contain a small number of specific questions for the interested companies to address. The Statement by the tenderers will include information on the following (weightings will be defined at this Project Specific Prequalification Stage):
 - Their availability and capacity to undertake the project.
 - A statement detailing their initial approach.
 - Their understanding of local issues.
 - Other issues specific to the project.

Evaluation criteria and weightings will be defined to suit the needs of the project. For this purpose Local Authority officers will be invited to input their requirements.

4. The HCA will identify both genuine interest and the best equipped of the contenders to deal with the project most effectively. From this Project Specific Prequalification stage the HCA will reduce the DPP from 18 to 3 maximum.
5. The formal mini-competition will follow, requiring a full Project Specific tender submission. A Project Specific Invitation to Tender - ITT - will be produced by the HCA in conjunction with the City Council. A financial appraisal will be undertaken of bidders on a project specific basis using the following information:
 - Project appraisal
 - Project cash flow; and
 - Evidence of funding.
6. The price basis and weightings will be provided to the tenderers with the ITT. Joint evaluation by the HCA and City Council will score the highest for the most project specific and efficient proposal. The appraisal will be partly based upon indicative evaluation criteria which are described in the HCA Framework document.