

Time commenced - 6.00 pm  
Time adjourned - 7.40 pm

## **COUNCIL MEETING 28 JANUARY 2004**

Present: The Mayor (Councillor P S Berry)  
Councillors Ahern, L Allen, Bayliss, E Berry, Blanksby, Bolton,  
Brown, Burgess, Care, Carr, Chera, Crosby, Dhamrait, Gerrard,  
Graves, Gupta, J E Hickson, P J Hickson, Hird, F Hussain,  
Jackman, Jackson, Jones, Latham, Liversedge, Lowe, MacDonald,  
Nath, Redfern, Repton, Roberts, Samra, Skelton, Smalley, Travis,  
Troup, Turner, Webb, West, Williamson, Willitts, Wilsoncroft,  
Wynn.

### **Apologies for Absence**

Apologies for absence were received from Councillors R J Allen, Baxter, Beech, A Hussain, Kalia and Rehman.

### **Declarations of Interest**

There were no declarations of interest.

### **Announcements from the Mayor**

The Mayor made the following announcements:

- To congratulate Councillor A Hussain on the award of the MBE in the New Year's Honours List. Councillor Nath also congratulated Councillor Hussain on his award.
- To wish Councillor Ray Baxter good wishes for a speedy recovery after his recent traffic accident.
- To report the recent death of Councillor Brian Smith, Mayor of Erewash. The Mayor said that he had sent his condolences to the Mayoress and Members of Erewash Borough Council.

### **56/03 Minutes of the Previous Meeting**

**Resolved that the minutes of the meeting of the Council held on 26 November 2003 be approved as a correct record, confirmed and signed by the Mayor.**

## 57/03 Statements by Members of the Council Cabinet

A Statement concerning Derby's success in the National Civic Pride Awards 2004, was made by Councillor Care, Council Cabinet Member for Planning, Transportation and Environment

## 58/03 Public Questions

There were no questions from members of the public.

## 59/03 Written Questions about the Business or Functions of the Derbyshire Police Authority or Derbyshire Fire Authority

There were no written questions about the business or functions of the Derbyshire Police Authority or Derbyshire Fire Authority.

## 60/03 Written Questions from Non-Council Cabinet Members to Members of the Council Cabinet

Written Questions from Non-Council Cabinet Members to Members of the Council Cabinet were asked as follows:

1. By Councillor Blanksby, concerning the removal of a traffic calming feature on Brackens Lane, answered by Councillor Care, Council Cabinet Member for Planning, Transportation and Environment
2. By Councillor Graves, concerning the Liberal Democrat Party's commitment to the overview and scrutiny process, answered by Councillor Burgess, Leader of the Council and Council Cabinet Member for Corporate Policy.
3. By Councillor Bayliss, concerning funds for the repair and maintenance of roads and pavements, answered by Councillor Care, Council Cabinet Member for Planning, Transportation and Environment.
4. By Councillor Roberts, concerning health and safety policies, procedures and action plans, answered by Councillor Carr, Council Cabinet Member for Personnel, Equalities and Direct Services.
5. By Councillor Roberts, concerning manual handling training, answered by Councillor Carr, Council Cabinet Member for Personnel, Equalities and Direct Services.

## 61/03 Business Remaining from the Previous Meeting

The meeting of the Council on 26 November 2003 had been adjourned in accordance with rule CP10. The following business had been held over to this meeting.

### 1. *Notice of Motion – Abandoned Vehicles*

At the previous meeting, Councillor Gerrard had moved the following motion:

“Council condemns the controlling Lib Dem/Tory Alliance’s refusal to support a partnership with the Derbyshire Fire and Police Authorities to speed up the removal of abandoned cars from Derby’s streets and open spaces.

In future, Council requests the Cabinet to participate in similar bids and join with partners to improve the environment of the City of Derby.”

At the previous meeting, Councillor Care had moved the following amendment but the amendment had not been put to the meeting.

“I move that the motion be amended :

\* by the deletion of the words :

all after the first ‘Council’

\* and by the insertion of the words :

“applauds the controlling Lib Dem/Conservative administration’s success in speeding up the removal of abandoned vehicles from Derby’s streets and open spaces and thanks officers within the Council for their part in achieving this.

Council urges the Fire and Police Authorities to work in consultation with other councils in Derbyshire to help them achieve similar results”.

(The effect of the amendment, if approved, was that the motion would read as follows:

“Council applauds the controlling Lib Dem/Conservative administration’s success in speeding up the removal of abandoned vehicles from Derby’s streets and open spaces and thanks officers within the council for their part in achieving this.

Council urges the Fire and Police Authorities to work in consultation with other councils in Derbyshire to help them achieve similar results.")

Debate continued at this meeting. The amendment was put to the meeting and carried.

**Resolved that Council applauds the controlling Lib Dem/Conservative administration's success in speeding up the removal of abandoned vehicles from Derby's streets and open spaces and thanks officers within the Council for their part in achieving this.**

**Council urges the Fire and Police Authorities to work in consultation with other councils in Derbyshire to help them achieve similar results.**

2. *Appointment of New Members to Women's Advisory Committee*

The Council considered a report to the Director of Corporate Services concerning the appointment of new members to the Women's Advisory Committee.

**Resolved, on the motion of Councillor Burgess**

1. **To appoint Sue Goff to represent the Derby Women's Centre on Women's Advisory Committee for up to two municipal years**
2. **To appoint Arshia Iqbal as an Individual Member of the Women's Advisory Committee for up to two municipal years.**

3. *Protocol on Gifts and Hospitality*

The Council considered a report of the Director of Corporate Services and Monitoring Officer concerning the adoption of a protocol on gifts and hospitality. The Standards Committee had resolved to recommend the Council:

- To adopt the draft Protocol on Gifts and Hospitality for Members
- To review the current guidelines for employees on hospitality with a view to bringing them into line with the proposed Members' Protocol.

**Resolved, on the motion of Councillor Burgess**

1. ***To approve and adopt the Protocol on Gifts and Hospitality attached to the report and incorporate it in the Council's Constitution.***
2. ***To ask the Director of Policy to review the current guidelines for employees on hospitality, in consultation with the Council Cabinet Member for Personnel, Equalities and Direct Services and appropriate trades unions, with a view to bringing them into line with the proposed Members' Protocol.***

4. *Urgent Non-Executive Decisions of the Chief Executive*

The Council considered a report of the Director of Corporate Services on Urgent Non-Executive Decisions taken by the Chief Executive between the September and November 2003 meetings of the Council.

**Resolved, on the motion of Councillor Burgess, to note the report.**

5. *Proposed Amendment to the Constitution – School Organisation Committee*

The Council considered a report of the Director of Corporate Services concerning a proposed amendment to the Constitution relating to appointments to the Schools Organisation Committee.

It was moved by Councillor Burgess, and seconded, to approve the following amendment to the Constitution.

Scheme of Delegations, Part F, Appendix – Part B, Page 111

Amend Part F of the Constitution to insert the following:

Function	Responsible Body	Responsible Officer
Appointments and Revocations of appointments to Group E – Schools Group, Schools Organisation Committee		Director of Education, in consultation with the Council Cabinet Member responsible for Lifelong Learning

It was moved by Councillor Wynn, and seconded, that the motion be amended by the deletion, within the column headed “Responsible Officer”, of the words “Council Cabinet Member responsible for Lifelong Learning” and the insertion in their place of the words “Leader, or nominee, of each of the political groups.”

(The effect of the amendment, if approved, was that the wording of the column headed “Responsible Officer” would read as follows:

“Director of Education, in consultation with the Leader, or nominee, of each of the political groups.”)

The amendment was put to the meeting and carried.

**Resolved to approve the following amendment to the Constitution.**

**Scheme of Delegation, Part F, Appendix – Part B, Page 111**

**Amend Part F of the Constitution to insert the following:**

<b>Function</b>	<b>Responsible Body</b>	<b>Responsible Officer</b>
<b>Appointments and Revocations of appointments to Group E – Schools Group, Schools Organisation Committee</b>		<b>Director of Education, in consultation with the Leader, or nominee, of each of the political groups</b>

The Council agreed to vary the order of business in order to deal with Item 14 on the Agenda at this point.

## **62/03 Council Tax Discounts on Unoccupied and Second Homes**

The Council considered a report of the Directors of Finance, Policy and Corporate Services on Council Tax Discounts on Unoccupied and Second Homes.

It was moved by Councillor Burgess, and seconded:

1. To approve changes to Council Tax charges on unoccupied and substantially unfurnished dwellings empty domestic properties from financial year 2004/05 so that the current discount granted to the liable person after the property has stood empty for more than 6 months is reduced from 50% to 10%.
2. To agree that the Director of Finance be authorised to reduce liability by up to 100% where satisfied that the liable person of any empty domestic property has made their best efforts to sell or let the property and to levy the 90% council tax charge would cause financial hardship to the liable person.
3. To approve changes to Council Tax charges on furnished properties which are not the sole or main residence of an individual from financial year 2004/05 such that the current discount granted to the liable person is reduced from 50% to 10% to the extent permitted by the proposed Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003.
4. To agree that there should be no locally defined discounts or exemptions in 2004/05, other than the relief of financial hardship in relation to empty domestic property.

It was moved by Councillor Wynn, and seconded, that the motion be amended by the insertion in paragraph 2 of the words “in consultation with the Cabinet Member responsible for housing” after the words “Director of Finance”.

(The effect of the amendment, if approved, was that paragraph 2 of the motion would read as follows:

- “2. To agree that the Director of Finance, in consultation with the Council Cabinet Member responsible for housing, be authorised to reduce liability by up to 100% where satisfied that the liable person of any empty domestic property has made their best efforts to sell or let the property and to levy the 90% council tax charge would cause financial hardship to the liable person.”)

The amendment was put to the meeting and carried.

**Resolved:**

- 1. To approve changes to Council Tax charges on unoccupied and substantially unfurnished dwellings empty domestic properties from financial year 2004/05 so that the current discount granted to the liable person after the property has stood empty for more than 6 months is reduced from 50% to 10%.**
- 2. To agree that the Director of Finance, in consultation with the Council Cabinet Member responsible for housing, be authorised to reduce liability by up to 100% where satisfied that the liable person of any empty domestic property has made their best efforts to sell or let the property and to levy the 90% council tax charge would cause financial hardship to the liable person**
- 3. To approve changes to Council Tax charges on furnished properties which are not the sole or main residence of an individual from financial year 2004/05 such that the current discount granted to the liable person is reduced from 50% to 10% to the extent permitted by the proposed Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003.**
- 4. To agree that there should be no locally defined discounts or exemptions in 2004/05, other than the relief of financial hardship in relation to empty domestic property.**

## **63/03 Minutes and Recommendations of the Council Cabinet**

The Council considered the minutes and recommendations of the Council Cabinet requiring the approval of the Council, set out in Appendix A to these minutes.

**Resolved, on the motion of Councillor Burgess, to approve the minutes and recommendations of the Council Cabinet dated 16 December 2003 and 13 January 2004.**

## 64/03 Notices of Motion

### 1. *Councillor R J Allen*

**Resolved, on the motion of Councillor Burgess, that Council agrees that, in accordance with Section 85(1) of the Local Government Act 1972, the illness of Councillor R J Allen be approved as the reason why he has failed to attend meetings.**

### 2. *Public Priorities Fund*

It was moved by Councillor Williamson, and seconded, that Council objects to the Cabinet's proposal to slash the Public Priorities Fund.

In accordance with Rule CP68, it was demanded by at least ten Members that a recorded vote be taken on the motion.

The following Members voted for the motion:

Councillors Ahern, Bayliss, Blanksby, Bolton, Chera, Dhamrait, Gerrard, Graves, Gupta, F Hussain, Jackson, MacDonald, Nath, Redfern, Repton, Roberts, Turner, Williamson, Wilsoncroft, Wynn (20)

The following Members voted against the motion:

The Mayor (Councillor P S Berry), Councillors L Allen, E Berry, Brown, Burgess, Care, Carr, Crosby, J E Hickson, P J Hickson, Hird, Jackman, Jones, Liversedge, Lowe, Samra, Skelton, Travis, Troup, Webb, West, Willitts (22)

Councillors Latham and Smalley had left the Council Chamber before the recorded vote was taken.

The motion was declared lost.

### 3. *Renaming of East Midlands Airport*

It was moved by Councillor Willitts, and seconded, that this Council requests East Midlands Airport and its parent company (Manchester Airports Group) not to go ahead with their proposal to change the name of East Midlands Airport to that of Nottingham International, and to ask that they take into consideration all the objections and strength of feeling from passengers, their own website visitors and local authorities to this distasteful attempt to change a name that is only sought for commercial reasons.



The Council consented to the alteration of the motion by the substitution of the words "East Midlands" for the word "International".

The motion was put to the meeting and carried.

**Resolved that this Council requests East Midlands Airport and its parent company (Manchester Airports Group) not to go ahead with their proposal to change the name of East Midlands Airport to that of Nottingham East Midlands, and to ask that they take into consideration all the objections and strength of feeling from passengers, their own website visitors and local authorities to this distasteful attempt to change a name that is only sought for commercial reasons.**

### 65/03 Proposed Amendment to the Constitution – Contracts for Supporting People Services

The Council considered a report of the Directors of Corporate Services and Policy concerning a proposed amendment to the Constitution relating to Contracts for Supporting People Services.

**Resolved, on the motion of Councillor Burgess, to approve a change to the Constitution which consists of amending Contract Procedure Rule C5 on page 227 of the Constitution, by inserting "Contracts for Supporting People Services" in the excluded areas.**

### 66/03 School Organisation Plan 2003 - 2008

The Council considered a report of the Director of Education concerning the School Organisation Plan 2003 – 2008.

**Resolved, on the motion of Councillor L Allen, to approve the School Organisation Plan 2003 – 2008.**

### 67/03 Urgent Non-Executive Decisions of the Chief Executive

The Council considered a report of the Director of Corporate Services on Urgent Non-Executive Decisions taken by the Chief Executive since the November 2003 meeting of the Council.

**Resolved, on the motion of Councillor Burgess, to note the report.**

## 68/03 Appointments to Outside Bodies

The Council considered a report of the Director of Corporate Services concerning Appointments to Outside Bodies.

It was moved by Councillor Burgess, and seconded:

1. To appoint the Chair of the Social Care and Health Commission to the Compact Forum.
2. To replace Councillor Rehman with Mr John Brittain on the Liversage Trust.

It was moved by Councillor Burgess, and seconded, that the motion be amended:

- By the addition of the words “for the remainder of the current municipal year” to paragraph 1.
- By the deletion of the existing paragraph 2 and the insertion in its place of the words:  

“2. To appoint Mr John Brittain to the Liversage Trust for the period ending 28 January 2008.”
- By the addition of the following paragraph:  

“3. To appoint Dave Wilkinson as the School Teaching Staff Representative on the School Organisation Committee, in place of Ian Jennison, in accordance with the recommendation of the Education JCC.”

The amendment was put to the meeting and carried.

### **Resolved:**

- 1. To appoint the Chair of the Social Care and Health Commission to the Compact Forum for the remainder of current municipal year.**
- 2. To appoint Mr John Brittain to the Liversage Trust for the period ending 28 January 2008.**
- 3. To appoint Dave Wilkinson as the School Teaching Staff Representative on the School Organisation Committee, in place of Ian Jennison, in accordance with the recommendation of the Education JCC.**

69/03 Exclusion of the Press and Public

**Resolved, on the motion of the Right Worshipful the Mayor (Councillor P S Berry), that, under Section 100A of the Local Government Act 1972, the public be excluded from the meeting during the consideration of the following item of business on the ground that it involves the likely disclosure of exempt information as defined in paragraphs 1 and 11 of Schedule 12A of the Act.**

70/03 Third Tier Service Managers' Pay Review

The Council considered a report of the Director of Policy concerning the Third Tier Service Managers' Pay Review.

**Resolved, on the motion of Councillor Carr, to approve the proposals arising from the pay review of third tier service managers for implementation on 1 April 2004.**

MAYOR

MINUTES OF COUNCIL CABINET REQUIRING THE  
APPROVAL OF COUNCIL

**COUNCIL CABINET**  
**16 DECEMBER 2003**

Present: Councillor Burgess – Chair  
Councillors L Allen, Carr, Care, P Hickson, Webb and West

This record of decisions was published on 18 December 2003. The key decisions set out in this record will come into force and may then be implemented on the expiry of 5 clear days unless a decision is called in.

## Performance Monitoring

### 241/03 Report of the Ombudsman

The Council Cabinet considered a report from the Director of Corporate Services, setting out details of a report from the Local Government Ombudsman into a complaint by an individual whom the Ombudsman referred to as Mr Burns. The complaint concerned a planning application for a second floor extension, next door to Mr Burns' tenanted property, which was granted by the Council under Officers' delegated authority.

The Ombudsman report concluded that the Council had been guilty of maladministration causing injustice and recommended that the Council:

- should pay the complainant £250 for his time and trouble
- ensure that what the Ombudsman had identified as deficiencies in its administration were rectified
- compensate the Complainant in full for any loss of value to his property arising from the existence of the extension if or when it was built, or the granting of planning permission for the extension if Mr Burns sold his property before it was built.

While the Council accepted that there was a failure to notify Mr Burns' tenants of the planning application, the Ombudsman made two assumptions:

- that Mr Burns and at least two of his four tenants would have made objections to the planning application had they known about it
- that if the Planning Control Committee had considered the application, it would have been refused.

These assumptions had been challenged by Officers but the Ombudsman had not been persuaded by the arguments.

## **Decision**

To recommend Council to:

1. agree to the payment of £250 to the complainant for time and trouble
2. ask the Director of Development and Cultural Services to rectify deficiencies in the administration of the planning process
3. agree to consider the question of compensating the complainant for any loss of value to his property related to the extension only after its construction.

## **244/03 Social Services Inspectorate (SSI) Annual Review of Performance 2003**

The Council Cabinet considered a report from the Director of Social Services, setting out the outcome of the SSI Annual Review of Performance 2002-2003 of Derby Social Services and the star ratings for Derby Social Services.

The 2002/03 star rating for Social Services was published on 13 November 2003. The Council retained its two star status. The judgement was that children's services were serving most people well with promising prospects and adult services were serving some people well with promising prospects.

## **Decision**

1. To recommend Council to note the SSI Annual Review of Social Services performance and the 2002/03 star ratings for Social Services.
2. To ask the Director of Social Services to report to Council Cabinet in six months to review how the areas for improvement in the report are being addressed.

MINUTES OF COUNCIL CABINET REQUIRING THE  
APPROVAL OF COUNCIL

**COUNCIL CABINET**

**13 JANUARY 2004**

Present: Councillor Burgess – Chair  
Councillors L Allen, E Berry, Care, Carr, P Hickson, Webb  
and West

This record of decisions was published on 15 January 2004. The key decisions set out in this record will come into force and may then be implemented on the expiry of 5 clear days unless a decision is called in.

## Matters Referred to Council Cabinet

### 255/03 Food Law Enforcement Service Plan

The Council Cabinet considered a report from the Planning and Environment Commission, which set out their comments on the Food Law Enforcement Service Plan. The Commission recommended that the Plan be approved unamended.

#### **Decision**

To recommend Council to approve the Food Law Enforcement Service Plan 2003/2004 as part of the Budget and Policy Framework.

## Contract and Financial Procedure Matters

### 272/03 Council Tax Base for 2004/2005

The Council Cabinet considered a report from the Director of Finance setting out the requirement for the calculation of the Council Tax Base for the city, as a key stage in the budget setting process which forms the basis for the Council Tax charge for the Council's tax payers for 2004/05. The tax base must be notified to Derbyshire Police Authority and Derbyshire Fire Authority by 31 January 2004 in order for them to set their precept for all the Council Tax payers in Derbyshire.

Appendix 2 of the report explained the statutory formulae which were used in the calculations and gave details of how the recommended tax base figure had been worked out.

#### **Decision**

1. To recommend Council to approve the Council Tax Base for the year 2004/05 as 67,930.8 Band D equivalent properties in accordance with the calculations and estimates shown in Appendix 3 of the report, in accordance with the Local Authorities (Calculation of Council Tax Base) (Amendment) (England) Regulations 2003.