

Time began: 6.02pm  
Time ended: 7.31pm

## **COUNCIL CABINET 12 February 2020**

Present	Councillor Poulter (Chair) Councillors Barker, M Holmes, Roulstone, Smale, Webb, Williams and Wood
In attendance	Councillors Cooper and Skelton Paul Simpson – Acting Chief Executive Gurmail Nizzer – Director of Children's Integrated Commissioning Simon Riley – Director of Financial Services Emily Feenan – Director of Legal, Procurement and Democratic Services Claire Davenport – Director of Leisure Culture and Tourism Ian Fullagar – Head of Strategic Housing Catherine Williams – Head of Regeneration and Major Projects Stella Birks – Visitor Services and Development Manager

This record of decisions was published on 14 February 2020. 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.

### **132/19 Apologies**

Apologies for absence were received from Councillors Eldret and AW Graves.

### **133/19 Late Items**

There were no late items

### **134/19 Receipt of Petitions**

There were no petitions

### **135/19 Identification of Urgent Items to which Call In will not apply**

There were no items.

### **136/19 Declarations of Interest**

Councillor Webb declared an interest in Item 8 – Adult Social Care Fees and Charges 2020/21 because he was the chair of a care home committee in the city.

Councillor Williams declared an interest in item 12 – YMCA Derbyshire – Y Steps Under 35's Housing Scheme because she had previously worked for the YMCA. Councillor Cooper declared an interest in item 22 – Street Lighting PFI because he used to work for the service provider.

## **137/19 Minutes of the Meeting Held on 15 January 2020**

The minutes of the meeting held on 15 January 2020 were agreed as a correct record.

## **Matters Referred**

### **138/19 Recommendations from the Executive Scrutiny Board**

The Council Cabinet considered a report on Recommendations from the Executive Scrutiny Board. The Executive Scrutiny Board met and discussed items contained within the Council Cabinet Agenda. The report enabled the views and recommendations resulting from these discussions to be formally shared with Council Cabinet. These were submitted to Council Cabinet as Appendix 1, prior to commencement of the meeting.

### **Decision**

To receive the report and consider the recommendations alongside the relevant report.

## **Key Decisions**

At this point Councillor Webb left the meeting.

### **139/19 Adults Social Care Fees and Charges 2020/21**

The Council Cabinet considered a report which stated that under the Care Act 2014, Councils have a duty to ensure that there was a sustainable and affordable social care market locally. This included establishing fee levels that providers would expect to receive for commissioned care that was delivered to meet a person's needs. To ensure that the Council was aware of and taking account of the cost pressures affecting local providers of care, engagement and consultation with independent sector providers had been undertaken in recent months. This had been focused on those providers operating "standard" care i.e. not those dealing with more complex levels of care. The report summarised the engagement findings, the reported cost pressures and feedback from providers. The report set out details of the funding model itself and the proposed rates for 2020/21 for standard residential / nursing care and for homecare services.

The report also set out the proposed charges for Council-provided adult social care services for 2020/21, which formed the annual review referred to in the Council's Adult Social Care Charging Policy.

It was noted that the full cost of care services was only paid by around a tenth of customers, the majority were subsidised following the outcome of a Financial Assessment.

The report included a recommendation to approve an annual inflationary uplift to be applied to Personal Budgets paid as Direct Payments where required, which would help ensure that such arrangements remain sustainable.

The Executive Scrutiny Board noted the report.

### **Options considered**

1. The Council could determine not to award any inflationary increase to the fees it pays for in-house and independent sector care. This was not being recommended as having a sustainable and viable social care market was vital to ensuring that the Council could discharge its statutory duties in relation to vulnerable adults.
2. The Council could decide not to increase the charges it levied for in-house and independent sector care. This was not being recommended as it would create an unmanageable pressure in the adult social care budget.
3. The Council could decide not to exercise the powers granted in the Care Act 2014 to levy administrative charges for certain activities. This was not being recommended as it would create an unmanageable pressure in the adult social care budget.

### **Decision**

1. To approve a 3.91% fee increase for independent sector standard residential care and nursing care weekly fee rates (net of the Registered Nursing Care contribution) from April 2020.
2. To approve a 3.3% fee increase for standard independent sector homecare services from April 2020.
3. To approve an increase to the charging rates for Council provided services of 3.0% from April 2020.
4. To approve an increase in existing Direct Payments, where an inflationary uplift was requested and evidenced, to a maximum of 2.4% in 2020/21 in line with the levels of inflation cited under general RPI.
5. To approve that all the new rates would apply from 06 April 2020 (in line with the planned date of the rise in state benefits for 2020/21).

6. To delegate authority to the Strategic Director of People Services following consultation with the Cabinet Member for Adults, Health and Housing to agree fee levels for complex individual customers placed with specialist providers, within the overall budget of Adult Social Care Services.

## **Reasons**

1. The Council must publish its intended fees for care taking into account market conditions and cost pressures. The Care Act required this as part of Council's "market shaping" duties which also required Councils to hold sufficient intelligence about their local care market. General information and consultation feedback from independent sector care providers had therefore been gathered, analysed, largely focusing on specific inflationary and cost pressures affecting care businesses. The Council's fee rate model for residential care homes and home care, as set out in Appendices 5 and 6, of the report had been adjusted and builds on the methodology used by the Council in previous years.
2. Maintaining income levels for Council-provided services was crucial to the management of the overall budget for the Council. This included considering whether care services that were directly provided needed to have their charges increased in line with inflation.
3. Introducing the option to apply an annual inflationary uplift for Direct Payments would address a systemic inequity whereby people electing to receive their funding by Direct Payment could be disadvantaged compared to those whose services were commissioned by the Council. Direct Payment holders who were utilising their entire available budget were forced to either absorb any inflationary price increases from their service providers, or to re-plan their services within their available funds. This new approach would therefore help to ensure that these Direct Payment arrangements were sustainable.
4. The proposed start date for all 2020/21 fees and charges aligned with the date that the Department of Work and Pensions (DWP) benefit rates were expected to change.
5. Specialist fee levels for people with more complex needs did not fit into the standard fee frameworks. Instead, these were individually set and agreed with providers.

Having declared an interest in the above item Councillor Webb left the meeting during the discussion and voting thereon.

At this point Councillor Webb returned to the meeting.

## 140/19     Determined School Admission Arrangements for Derby City Maintained and Voluntary Controlled Schools 2021 - 2022

The Council Cabinet considered a report which stated that the Council was the Admissions Authority for all maintained and voluntary controlled schools within Derby City, and therefore, must comply with the statutory duty to consult on any changes to its admission arrangements on behalf of those schools before they were determined and published in the year preceding admission.

The School Admissions Code 2014 required that consultation on admission arrangements for the academic year 2021-2022 must last for a minimum 6 weeks and must take place between 01 October 2019 and 31 January 2020. All admission arrangements must then be determined (set) by the statutory deadline date of 28 February 2020.

No objections or comments relating to the proposed admission arrangements had been received during the consultation period between 01 November 2019 and 13 December 2019.

The proposal was for the admission arrangements for the 2021-2022 academic year set out in Appendix 2 of the report, to be considered and approved as the determined (set) admission arrangements by Council Cabinet.

The Executive Scrutiny Board noted the report.

### **Options considered**

Not to undertake a consultation where there were no changes proposed for a period of up to seven years. However, all admission authorities must publish their determine admission arrangements every year, even if they had not changed from previous years. It was considered annual consultation process provided parents, carers and stakeholders with a regular opportunity to review and comment on the proposed admission arrangements each year.

### **Decision**

1. To approve the proposed admission arrangements for Community and Voluntary Controlled infant, junior, primary and secondary schools as set out in Appendix 2 of the report as the determined (set) admission arrangements for the 2021-2022 academic year.
2. To approve the published admission numbers as set out in Appendix 3 of the report.

### **Reasons**

To ensure that fairness, equity and transparency was retained and that Derby City was fully compliant with the mandatory requirements of the School Admissions

Code 2014, School Admission Appeals Code 2012, relevant legislation and regulations.

## **141/19     New Primary School Provision at Snelsmoor Grange and Castleward**

The Council Cabinet considered a report which stated that The Education Act 2011 reviewed the arrangements for establishing new schools and introduced Section 6A (the free school presumption) to the Education and Inspections Act 2006. Where a Local Authority (LA) considered there was a need for a new school in its area, it must seek proposals from potential sponsors to establish a free school.

Approval was being sought to commence competition processes to identify sponsors in readiness to open two proposed new primary schools. This was part of the forward planning to accommodate pupils from the following housing developments:

- a. Snelsmoor Grange and Fellow Lands Way, Boulton Moor
- b. Castleward and former Derby Royal Infirmary (DRI) Site

### **a. Snelsmoor Grange and Fellow Lands Way, Boulton Moor**

A new housing development was proposed at Snelsmoor Grange, Boulton Moor, for 800 dwellings. It was anticipated that 224 primary school pupils would be generated by the development. There was very limited surplus capacity available in nearby primary schools and there were other housing developments underway in the local area which would increase the pupil population.

A development had also recently been completed at Fellow Lands Way, Chellaston, in close proximity to Snelsmoor Grange. This development was comprised of 190 dwellings which, over time, would generate an estimated 53 primary school pupils. Following careful consideration, a 315 place (1.5 form of entry) primary school was proposed, as a result of the new housing at both Snelsmoor Grange and Fellow Lands Way, to ensure sufficient school capacity.

### **b. Castleward and former Derby Royal Infirmary (DRI) Site**

An exciting regeneration project was underway at Castleward, along with a major new housing development proposed on the adjacent former Derby Royal Infirmary (DRI) site, both of which were close to the city centre. Phases 1 and 2 of the Castleward development were for a minimum of 398 dwellings and the former DRI site development was for 796 dwellings. This was a minimum total of 1,194 dwellings which, it was anticipated, would generate around 133 primary school pupils over a number of years, linked to the housing build programme and wider regeneration project. Again following careful consideration, a 315 place (1.5 entry) primary school was proposed as a result of the new housing at Castleward and the former DRI site.

Further additional properties were anticipated in future phases of the Castleward development. The new school would provide primary places for pupils from these future dwellings, as part of the Council's infrastructure planning and commissioning of school places to serve the longer term regeneration project underway in this area of the city.

In both cases, the current proposal was for the new primary schools to open in September 2021, on a phased basis. This would, however, be kept under careful review in light of housing development programmes and the outcome of a bid for capital funding towards the cost of building the Snelsmoor Grange school. The successful sponsors would be asked to work in close partnership with the Council on the timing of opening up the new schools, including opening up year groups and capacity on a phased basis, in response to demand arising from the developments. Approval was being sought to start competition processes, as part of the forward planning to enable sponsors to be appointed prior to the schools opening.

**The Executive Scrutiny Board recommended to Council Cabinet that it writes to Homes England to thank them for their support with the Castleward project.**

### **Options considered**

1. The option of creating no additional provision was discounted as there was very limited surplus capacity available in primary schools close to either of the proposed new schools. There were also other housing developments underway in the Snelsmoor Grange area which would increase the pupil population. The Council had a statutory duty to plan sufficient school places for the City.
2. Due to the size of other local primary schools and site constraints, it was not considered possible to expand existing primary schools to the extent needed to accommodate estimated pupil numbers. Following careful consideration, it was suggested that two new 1.5 form entry primary schools (315 places) are provided, with nursery provision at both sites.

### **Decision**

1. To approve commencement of two competition processes, inviting proposals to establish new schools in Boulton Moor (Snelsmoor Grange) and Castleward to accommodate pupils from the proposed new housing developments at Snelsmoor Grange, Fellow Lands Way, Castleward and the former DRI site.
2. To bring a further report to Council Cabinet to approve the Council's preferred sponsors for recommendation to the Secretary of State for these competitions, following an evaluation of proposals.
3. **To accept the recommendation from Executive Scrutiny Board that Council Cabinet writes to Homes England to thank them for their support with the Castleward project.**

4. To thank the officers for all the work to bring this project on line.

## Reasons

1. New schools were required to accommodate pupils from housing developments at Snelsmoor Grange, Boulton Moor and Castleward and the former DRI site in the city centre. Where a Local Authority (LA) considered there was a need for a new school in its area, it must seek proposals from potential sponsors to establish a free school.
2. The Council was able to make a recommendation to the Secretary of State on its preferred sponsor, following an evaluation of proposals. The decision on which sponsor was appointed to open the new school would then taken by the Secretary of State.

## 142/19 Our City Our River Update and Next Steps

The Council Cabinet considered a report which provided an update on OCOR's successful delivery to date and the financial position of the programme and to secure approval for the next steps for OCOR, including the progression of a Compulsory Purchase Order (CPO), if required.

**The Executive Scrutiny Board recommend to Council Cabinet that it asks Derby Homes to work closely with economic development, tenants in Exeter House and also home owners, to ensure that they are kept informed about plans, timescales and support for relocation; and that it makes it clear that it is committing to the revised or alternative scheme.**

## Options Considered

**Do no further works.** The OCOR works packages were designed and underpinned by flood modelling. Designs accommodated the possibility that, on the completion of each project stage, further work might cease. However, the cessation of works following the completion of works presently underway (the Package 1 and Munio projects works) was not an option supported by the OCOR Project and Corporate Boards because maximum flood protection was only provided on the completion of all OCOR works. The partnership with the Environment Agency was underpinned by a commitment to work collaboratively and deliver all 3 works packages.

**Do minimum:** The flood modelling that underpinned the OCOR programme dictated that no further elements of work could be delivered without completion of Package 2, i.e Derby Riverside. Therefore, Derby Riverside and associated mitigation works in South Derbyshire were a minimal next phase of works beyond the current committed works contracts. The proposals in the report outlined the next steps required and risks associated with progressing this. The Council could then decide, for example, not to pursue any further works in Package 3.



**Minimum intervention including negotiations by agreement.** The option of not pursuing a Compulsory Purchase Order, relying on land acquisition by agreement and simply with support by the use of the EA's delegated Powers of Entry, was highly unlikely to achieve the required land control interests to expediently deliver the Derby Riverside flood mitigation proposals. The benefits of delivering the OCOR flood mitigation and alleviation measures in a comprehensive fashion without risk of sections of defences not being completed were easily recognisable. However, the original expectation that sections of the OCOR masterplan would be delivered by third parties was proving challenging. The Council remained committed to engaging with land owners and developers to deliver fully integrated flood mitigation measures into their developments to help avoid only standalone walls being constructed utilising, for example, the EA's powers of entry.

**Pursue delivery of the entire OCOR programme** The OCOR partners agreed that the whole of the OCOR programme should be completed to afford the maximum level of flood protection and to bring forward development sites that were then protected, including residential-led development in the Derby Riverside area. The significant benefits of the programme outweigh the risks which would need to be actively managed and minimised throughout the scheme delivery. The lack of full funding for the works was the major obstacle to delivery and would continue to restrict the Council's ability to deliver the project if unaddressed. The review of the OCOR Funding Strategy acknowledged the successes to date and set out, the opportunities to secure full funding contributions for the programme.

## **Decision**

1. To note the successful delivery of OCOR works to date as outlined in Appendix 1A and the financial position of the project as outlined in paragraph 7.4 and Appendix 5 of the report.
2. To delegate authority to the Strategic Director for Communities and Place, following consultation with the Director of Financial Services and the Cabinet Member for Regeneration, Planning & Transportation to take all actions necessary within the approved allocation of expenditure and grant funding available to deliver the next steps for OCOR, as outlined in paragraphs 4.9 to 4.12 of the report.
3. To delegate authority to the Director of Financial Services, following consultation with the Strategic Director for Communities and Place and the Cabinet Member for Regeneration, Planning & Transportation to acquire properties required for the Derby Riverside flood mitigation measures, if a funding source is established.
4. To authorise in principle, the use of CPO powers as necessary to acquire the land and interests, identified on the Plan ("the Land") included as Appendix 3 to the report, to enable the future delivery of the OCOR priority of Derby Riverside.
5. To approve up to £2m of additional capital expenditure for the next steps for OCOR as set out in para 7.5 of the report, funded from the remainder of the

OCOR grants. Note that as the full funding package to deliver the associated capital works was still not yet in place, there was a risk of this expenditure being abortive.

- 6. To accept the recommendations from the Executive Scrutiny Board that Council Cabinet asks Derby Homes to work closely with Strategic Housing, tenants in Exeter House and also home owners, to ensure that they are kept informed about plans, timescales and support for relocation; and that it makes it clear that it is committing to the revised or alternative scheme.**

## **Reasons**

1. To provide information to Cabinet about the successful delivery of OCOR to date.
2. To set out OCOR's priorities for next steps until 2023. This included the preparation and submission of the necessary documents to secure full planning consent for proposals at Derby Riverside. This would place OCOR in a much better position to secure further funding for the delivery of this important scheme. We would also be able to provide certainty for key stakeholders and landowners about how we intended to deliver OCOR in the city centre.
3. Whilst flood defence walls could be delivered without recourse to CPO, the flood mitigation enhancements proposed extend beyond merely constructing walls. Therefore, a CPO would almost certainly be needed to deliver comprehensive flood mitigation measures and environmental improvement works at Derby Riverside ("the Scheme"). The report therefore sought in principle approval to use the Council's CPO powers if necessary, and outlined the work required to promote a CPO. A further report would be brought back to Council Cabinet outlining the land that would comprise the CPO and the justification for making a CPO, in the form of a Statement of Case, which would form the basis of the final approval to make a CPO.

## **143/19 YMCA Derbyshire – Y Steps Under 35's Housing Scheme**

The Council Cabinet considered a report which sought approval for the renewal of a lease arrangement for 24 two-bedroomed properties with YMCA Derbyshire (YMCA), for a period of 5 years, to commence January 2020.

The shared units would continue to provide accommodation for single people under 35 years of age supporting their transition from homelessness into longer term housing solutions. YMCA would work with the residents to develop the necessary skills for sustainable independent living over the period of their stay. The YMCA's agreement to let the properties to meet these aims would be incorporated into the lease as express provisions, and demonstrated that these measures formed part of the Council's commitment to meeting its statutory obligations.

Approving this proposal would respond to duties contained within the Homelessness Reduction Act 2017, particularly the development of housing pathways for vulnerable people in need of homes. It also responded to a shared accommodation need within the city that Derby Homes were not currently able to offer.

The Executive Scrutiny Board noted the report.

### **Options considered**

1. The Council could choose to release these 24 two bed units and let them through Homefinder, to those assessed with a housing need and requiring two bedroom accommodation. Whilst this would be advantageous in meeting need from the housing register it would only support 24 applicants. Using these units in a targeted way through leasing to YMCA would enable up to 96 young people, per annum, to transition from supported accommodation with the necessary skills to move to independent living, which would provide greater support to the delivery of the requirements of the Homeless Reduction Act, in particular, the requirements to establish housing pathways for vulnerable groups.
2. The recommended option would secure supported shared move on accommodation for younger homeless people. Without this support, the council would find it difficult to meet its duties under the Homelessness Reduction Act 2017 and alternative arrangements would need to be sought, if possible, for up to 480 young people accommodated and supported through delivery of this scheme.

### **Decision**

1. To agree to the renewal of leases of 24 two-bedroomed Housing Revenue Account (HRA) owned properties, as proposed, to the YMCA for a period of 5 years, at a total annual rental of £93,900 in year one, increasing on 1 April each year thereafter in line with rent policy (September CPI plus 1%).
2. To note that other general terms of these leases would be the same as those for the leases that had recently expired for the same properties, with the following amendments:
  - that, by agreement, the specific properties may be swapped in or out of the leasing arrangements if more suitable alternative units become available.
  - rolling break clauses for both parties would be incorporated into the lease arrangements.
3. That the Strategic Director of Communities and Place, following consultation with Director of Financial Services and Cabinet Member for Adults Health and Housing be authorised to take all necessary and appropriate steps to agree terms, extend, terminate or vary the lease arrangements.

## Reasons

1. This proposal helped the Council to meet its new duties, applied nationally, under the Homelessness Reduction Act 2017, which required it to work with partner providers to ensure it could meet these new duties.
2. The YMCA would partner with the Council and Derby Homes to help meet these new duties through this scheme, utilising the 24 units that were currently being leased.
3. YMCA would maximise use of this accommodation through shared occupancy and 6 monthly turnover.
4. Without this provision, whenever such a young person starts to struggle and loses their accommodation, poor outcomes for the young person and a homelessness representation and related costs to the Council were likely to follow.

## 144/19 Derby Destination Management Plan

The Council Cabinet considered a report which sought approval for The Derby Destination Management Plan (DMP) to be adopted as a key strategy for the City. The DMP identified the vision, objectives and actions required to help the City to develop as a destination.

To agree that the DMP vision, objectives and action plan, should be used to inform and influence policies, planning and development of the City to enable maximum potential benefit from the visitor economy.

Support and communicate an identity for the City of Derby which was used to develop a unique and authentic visitor experience and guide decision making.

### **The Executive Scrutiny Board recommended to Council Cabinet:**

- 1. that in order to improve Derby as a destination, the Assembly Rooms should be demolished and a new performance venue built; and**
- 2. that it amends the document to include the following short sections that:**
  - a) highlight the role to Derby residents to encourage visits to Derby by their family and friends and also residents themselves making use of visitor facilities and venues too; and**
  - b) celebrate continuing actions that make Derby a low-carbon destination, including its good rail connections and walkable city centre.**

### **Options considered**

1. Not adopting the Destination Management Plan. Without the DMP to bring

together the various partners and stakeholders, they were less likely to collaborate leading to lack of coordination, wasted resources and missed opportunities.

2. Derby would be unlikely to develop as a destination, not recognise and realise potential fail to address our barriers. The City would fall behind our competitors and fail to win bids for events and funding.

## Decision

1. To approve The Derby Destination Management Plan including objectives and action plan' (DMP) as set out in Appendix 1 of the report.
2. To support the use of the DMP to inform policies and planning so that the needs of the visitor economy are reflected and Derby continues to develop as a destination.
3. **To reject the recommendations from Executive Scrutiny Board because the Council could not commit to recommendation 1 at this time and recommendation 2 was already included.**

## Reasons

1. Having a Destination Management Plan was a key recommendation from VisitBritain to enable a place to develop as a visitor destination. VisitBritain is the National Tourism Agency funded by DCMS. They are responsible for building the volume and value of tourism to England.
2. The Derby DMP had been produced in consultation with relevant stakeholders amongst Derby's visitor economy businesses, together with actual and potential visitors. It reflected therefore, the real strengths and weaknesses, issues and opportunities concerning the sector. It used this information to protect and enhance the Council's reputation, highlight interventions which could stimulate change and lead to an increase in visitors. Visitors support the economy, make businesses sustainable and create jobs.
3. Being able to refer to a DMP based on stakeholder engagement and visitor data would help the Council and its partners to make strategic decisions that would increase the value of the visitor economy. Achieving the objectives within the DMP could increase the city's chances of success when bidding for events and funding.

## 145/19 Derby Culture Strategy 2020-2030

The Council Cabinet considered a report which sought approval for the adoption of the Culture Strategy for Derby for the period 2020-2030.

The Culture Strategy was for the whole city; and created a framework to achieve Derby's cultural ambition. It was a resource for those working in the creative, cultural and heritage sectors and those that would like to collaborate with them.

Culture played an important role in the success of a city. This strategy helped maximise the opportunities for culture in Derby by it being used as a central driver for achieving future aspirations and ambitions for our city.

The strategy was accompanied by an initial two year Action Plan for the period 2020-2022. This aimed to address short term priorities that would create the longer term foundation for culture to be utilised in a range of contexts to contribute to achieving the city vision.

#### **The Executive Scrutiny Board recommended to Council Cabinet:**

- 1. that the membership of the Derby Culture and Leisure Board be extended to include representatives from all political parties; and**
- 2. that it welcomes the initial work on a cultural strategy but requests a clearer programme of progressive development work covering the whole ten year period, with more detail in the earlier years.**

#### **Options considered**

There was the option to not have a culture strategy. However funders would view this negatively as the strategy created context for investment and gives confidence in city ambitions. Not having a strategy makes it harder to attract investment.

#### **Decision**

- 1. To approve the Culture Strategy for Derby for the period of 2020-2030 as set out in appendix 1 of the report; and the Culture Strategy Action Plan for the period 2020-2022 as set out in Appendix 2 of the report.**
- 2. To reject recommendation 1 from Executive Scrutiny Board because this was not within the gift of the Council.**
- 3. To accept recommendation 2 because the strategy was an emerging and evolving document.**

#### **Reasons**

The Culture Strategy was an important statement to funders, partners and stakeholders of the value Derby places on culture as a driver for place making and regeneration. It was therefore important that the strategy was endorsed and supported by the Local Authority and had cross party support.

## Budget and Policy Framework

### 146/19 2019/20 Quarter 3 Forecast of Outturn for General Fund, Capital Budgets, Dedicated Schools Grant, Collection Fund and Housing Revenue Account

The Council Cabinet considered a report which stated that

To summarise the Council's forecasted financial outturn position to 31 March 2020 based on the financial position as at 31<sup>st</sup> December 2019.

- **Revenue budget:** The Council was currently forecasting an overspend of £6.445m against our base budget requirement of £220.609m. The overspend had increased by £0.962m, compared to the £5.483m overspend reported at the end of quarter 2. This increase in the main was due to Children's services within the Peoples Services directorate. The Council (alongside most Councils) faced a significant challenge around the sufficiency of placements; too many children were being placed with carers and providers from the private and independent sector. These placements were often more expensive than those that the Council could provide itself.

The Council's forecast overspend for 2019/20 was 2.9%. Excluding the demand led Children Social Care Budget the Council's was forecasting a 0.3% underspend for all other Council Services. The Council had also been successful in delivering the £7.183 million of savings and income generation business cases included within the 2019/20 budget approved by Council in February.

- **Children's Social Care.** The budget for Children's Social Care remained the Council's key pressure with short term spikes in demand or sufficiency in placements leading to changes in the forecast outturn as had been experienced from Quarter 2 to Quarter 3. The previous quarter forecast did assume that there would be some movement of some of the high cost external residential placements to our own in-house provision but this transition may not materialise until after April 2020 due to the temporary closure of one of our homes over the Christmas period.

Despite an increase in the in-year spend in Social Care there was evidence that the interventions and demand management initiatives within Children's Social Care were stemming the increase in children looked after and cost of placements. During the calendar year of 2019 there were 233 new entrants into care. By comparison, in 2018 there were 268 new entrants, in 2017 there were 262 new entrants and in 2016 there were 160 new entrants. This represented a turning of the curve for the first time in three years and a significant decrease of 14% (35) within the last 12 months of children and young people being received into care at a time when demand nationally and regionally was increasing. This

reflected and evidenced the impact of the targeted edge of care prevention work as part of the Demand Management programme within Early Help and Children's Social Care that commenced at the beginning of 2019.

The Stronger Families Resilient Children strategy was designed to change culture and practice across the service and sought to strengthen the family to support their own needs within the community where it was safe to do so as opposed to meeting their need through being brought into in care. There would always be the need for a cohort of children and young people needing to become looked after for their own protection, however the overall number of total looked after children was a consequence of those higher numbers entering care in 2017 and 2018 still remaining in the system. Throughput alongside maintaining prevention was the planned focus of intervention by the Service in 2020. Additional funds to meet the current demand had also been incorporated within the MTFP going forward which would allow these initiatives to continue.

- **Capital budget:** Capital expenditure to date was £52.778m and our forecast was estimated at £107.248m against an approved capital budget of £181.031m.
- **Reserves:** The General Reserve balance remained at £10.933m and our Earmarked Reserves had a future years' forecast balance of £16.256m after taking account of the current forecast overspend of £6.445m. Any further residual overspend at the end of 2019/20 would reduce the reserve level. The planned use of reserves to support the budget alongside the in-year call on reserves to fund the overspend, had reduced the level of reserves to smooth or support the MTFP in future. However, in the recent CIPFA financial resilience index the level of Council Reserves (compared to the comparator group of Councils) was not assessed as being subject to undue stress.
- **Treasury Management:** Total debt was £430.821m and total investments were £71.337m compared to £443.573m and £67.838 as at 31 March 2019. No new borrowings had been made or were anticipated to be made in the year. Total debt had reduced by £12.752m including the repayment of PWLB debt totalling £11.077m.
- **Dedicated Schools Grant (DSG):** The total grant of £234.766m had been allocated to schools and retained educational services. There was an overspend forecast on the High Needs Block of the DSG of £2.6m. DSG Reserve Balances were reported at £2.8m at the start of the financial year, with a current forecast of £0.2m left at the end of 2019/20. There was the likelihood that either this year or next year a deficit recovery plan would need to be agreed with the DfE
- **Collection Fund:** Council Tax billed for the 2019/20 financial year was £120.03m of which £97.019m or 80.48% had been collected. Business Rates billed for the 2019/20 financial year was £93.745m of which £77.098m or 81.91% had been collected.
- **Housing Revenue Account (HRA):** The full year forecast projected a planned use of the HRA reserve of £4.507m.



- **Performance on sundry debt collection and movement on arrears outstanding:** The value of Sundry Debts to be collected was £8.751m. This represented a reduction of £0.417m on the figure reported in the 2019/20 quarter 2 report.

Further analysis and explanations of key variances were provided in section 4 of the report.

Included in the revenue forecast were planned savings and mitigating savings of £7.183m. This equated to 100% of the savings target set by Council for 2019/20. The limited number of unachievable savings within the 2019/20 budget had been addressed through the identification of additional savings and/or income.

A summary of the net revenue forecast by directorate was set out in the report, further detail on the restated budget was set out in section 4.2 of the report:

The Executive Scrutiny Board noted the report.

## Decision

### 1. To note:

- The revenue projected outturn and key budget variances set out in the report in section 4 and the savings to be delivered in the year in section 4.25 of the report.
- The capital programme forecast and actual capital expenditure incurred during the quarter summarised in section 4.30 of the report.
- The Council's reserves position, as set out in section 4.52 and Appendix 1 of the report.
- The Council's treasury position and performance in the quarter, as set out in section 4.55 of the report.
- The forecast Dedicated Schools Grant position summarised in section 4.59 of the report.
- The Council Tax and Business Rates Collection Performance as set out in section 4.60 of the report.
- To note the Housing Revenue Account Performance and projected outturn as set out in section 4.64 of the report.
- To note the changes already approved under scheme of delegation to the capital programme detailed in Appendix 2 of the report.
- The direct revenue financing as detailed in Section 6 paragraphs 4.48 to 4.51 of the report.

### 2. To approve:

- To approve changes to the 2019/20 - 2021/22 capital programme outlined in section 4.30 and detailed in Appendix 3 of the report.

## 147/19 Medium Term Financial Plan 2020/21 – 2022-23 (Revenue Budget, Capital Budget, Housing Revenue Account, Dedicated Schools Grant, Reserves)

The Council Cabinet considered a report which outlined the Council's budget proposals for the period 2020/21 to 2022/23 to recommend to Council:

### **Revenue budget:**

The report outlined proposals to recommend to Cabinet a net budget requirement of £238,199,575 for 2020/21 and outlined the budget proposals for 2021/22 and 2022/23. The favourable Government finance settlement and the proposals detailed in the report results in an increase in the budget requirement (the net amount that the Council spends on services for the City) from £220.609m in 2019/20 to £238.2 million in 2020/21. Over the period to 2022/23 detailed in this MTFP this was forecast to increase to £253.082 million.

It also set out permanent savings requirements of £8.780m over the three year period to address the impact of funding reductions, demand pressures, rising costs, maintaining priority services and investing for the future. These savings totalled £4.746m in 2020/21, £2.275m in 2021/22 and £1.759m in 2022/23.

### **Capital budget:**

The report set out the 2020/21 to 2022/23 capital programme to recommend to Council. The main areas of the £386.410m programme over the next three years were:

- £12.2m for the Environmental Agency flood defence project Our City Our River.
- £36.2m for the People's directorate programme, including the conclusion of the current secondary school expansion programme and repairs, maintenance and improvements to the fabric of school buildings. This was indicative, subject to confirmation of Government allocations.
- £124m Housing programme including refurbishment to Council-owned houses in the Housing Revenue Account (HRA) and an extensive new build programme. This was indicative subject to the approval of the HRA business plan. Housing General Fund schemes to deliver decent homes and assistance to vulnerable householders, disabled facilities grants, other repairs and assistance in the private sector and support for affordable housing.
- £43.1m for Highways and Transport - to improve the highway network and deliver major schemes such as the A52/Wyvern Transport Improvements.
- £51.2m for Property improvements and new construction to Council buildings and infrastructure, including the new scheme to build a new swimming pool at Moorways.
- £77.1m for regeneration of the city centre and key regeneration areas, including Infinity Park Derby and the Innovation Centre.

- £30m provision for future capital investment.

The capital programme outlined assumptions made on future year's government allocations which were still to be confirmed.

The report also contained a refreshed Capital Strategy that gave a high level overview of how capital expenditure, capital financing and treasury management activity contributed to the provision of local public services along with an overview of how associated risk was managed and the implications for future financial sustainability as detailed in Appendix 17 of the report.

### **Housing Revenue Account:**

The report sought approval for the updated Housing Revenue Account (HRA) Business Plan, its associated rent increases and Capital programme. The HRA Business Plan set out the 30 year investment strategy for the management and maintenance of the Council's housing stock together with investment proposals for additional homes.

Despite increasing pressures in recent years, the HRA remained in a relatively strong position. It could meet the immediate management and maintenance requirements of the Council's housing stock, together with the investment ambitions for additional homes, and the modelled business case requirements over the 30 years of the business plan.

The HRA and use of available Right to Buy Receipts (RTB) was forecast to invest £106.3 million into the Housing stock including building 375 new homes over the MTFP.

The Headline rent increase was 2.7% in line with Government guidelines.

### **Dedicated Schools Grant:**

On 19 December 2019 the Department for Education (DfE) announced the details of the School Funding Settlement following the Government's earlier announcement that national funding for schools and high needs would increase by £2 billion for 2020/21, £4.8 billion for 2021/22 and £7.1 billion for 2022/23.

The Dedicated Schools Grant (DSG) for Derby was split into four blocks; Schools Block, Early Years Block, High Needs Block and a Central School Services Block.

The 2020-2021 allocation for the DSG was £253.297m and was made up of four blocks of funding:

<b>School Funding Blocks</b>	<b>£m</b>
Schools Block	189.480
Central Schools Block	3.414
High Needs Block	40.345
Early Needs Block	20.058
<b>Total</b>	<b>253.297</b>

The Dedicated Schools Grant for 2020/21 results in increased per pupil allocations as well as additional funding for High Needs. However, the demands in the High Needs Block (support for pupils with Special Educational Needs) remained high (and overspent significantly in 2019/20). The budget forecast in this block was effectively a standstill budget with any increase in demand requiring funding from the overall DSG which would mean the Council running a deficit DSG reserve. This would not be sustainable and would require development of an action plan during 2022/21.

## **Reserves**

The report detailed a series of strategies and assessments of the adequacy of reserves which were required as part of the budget process. These demonstrate that the Council was able to set a balanced budget and to plan its finances on a sustainable basis.

Prior to Council Cabinet recommending to Council the Budget Requirement to set the Council Tax it was required to consider the Section 25 report from the Director of Financial Services (attached at Appendix 6 to the report) that detailed the adequacy of reserves and robustness of the estimates for the period 2020/21 to 2022/23.

The report also detailed how the Budgets support delivery of the Council Plan and a number of the initiatives, interventions and approaches to allow resources and investments to be targeted to priorities.

The Executive Scrutiny Board noted the report.

## **Decision**

1. To note:
  - (a) The outcomes of the Budget Consultation detailed in Appendix 9 and 10 and 11 and Scrutiny detailed in Appendix 12 of the report.
  - (b) The Section 25 Report of the Director of Financial Services on the robustness of estimates and on the adequacy of the reserves 2020/21 to 2022/23 detailed in Appendix 6 of the report.
2. Subject to the above to recommend to Council:

## **Revenue Budget**

- a) Derby City Council's net budget requirement for 2020/21 of £238,199,575 subject to the finalisation of the Council's Council Tax for 2020/21.
- b) To increase the City Council element of Council Tax by 3.99% as set out in Paragraph 4.9.4 of the report.
- c) The directorates revenue budget plans for 2020/21 to 2022/23 as set out in section 4.6.6 to 4.6.14 of the report and the revenue budget estimates as detailed in Appendix 3(a) to (c) of the report.
- d) The implementation of savings proposals included in Appendix 4 subject to the completion and consideration, where relevant, of any further consultation exercises, equality impact assessments and assessments under Section 17 of the Crime and Disorder Act 1998.
- e) The commencement of appropriate procurement procedures to support the specific budget proposals listed in Appendix 4 of the report.

### **Reserves**

- a) The use of reserves of £2.772m (1.2% of the budget) on a non-recurrent basis to support the Revenue Budget as detailed in Appendix 5 of the report.
- b) The transfer of £1m from the corporate contingency budget to treasury management from 1st April 2020 to consolidate the treasury budget requirements as outlined section 4.6.18 of the report.
- c) The reserves policy as detailed in Appendix 7 of the report.

### **Capital**

- a) The capital programme for 2020/21 and note the indicative capital programme for 2021/22 and 2022/23 as set out in section 5. A summary and detail was detailed in Appendix 13 of the report.
- b) The award of £0.183m St Giles-Aspect funding added to the 2020/21 – 2022/23 capital programme to Spencer Academies Trust as a grant, subject to completion of the Council's standard Grant Agreement.
- c) To recommend that Council approve the additional borrowing outlined in section 5.9.3.1 and detailed in Appendix 14 of the report.
- d) The MRP policy detailed in Appendix 15 of the report.
- e) The prudential indicators detailed in Appendix 16 of the report.
- f) The Capital Strategy attached at Appendix 17 of the report.
- g) To consider capital funding commitment within the MTFP to address climate change.

### **Housing Revenue Account**

- a) The 2020/21 update of the rolling 30 year HRA Business Plan, as set out in section 6 of the report.
- b) To approve funding for an expansion of the new homes programme as part of the Council's HRA capital programme as set out in section 6.6.4 and Appendix 13 of the report.
- c) The 2020/21 management and maintenance fee paid to Derby Homes as set out in section 6.7.5 and 6.7.6 of the report.
- d) The changes to rents and service charges as set out in section 6.9.1 of the report.
- e) The continuation of the HRA capital programme for the years 2020/21 to 2022/23 in Appendix 13 of the report and to approve Derby Homes directly managing the schemes attributed to them.

### **Dedicated Schools Grant**

- a) The allocations of the Dedicated Schools Grant as detailed in section 7 of the report.
- b) The implementation of a minimum funding level per pupil of £3,750 for primary and £5,000 for secondary aged pupils.
- c) The base rate element of the Early Years Funding for 2 year olds of £5.28 and 3/4 year olds £4.38 per hour.
- d) The application of the following formula criteria for 2020/21
  - i. To implement a cap on growth above 10% per pupil and scale any growth over 10% by 30%
  - ii. To set a Minimum Funding Guarantee of 0.5%.
- e) The transfer of £0.926m from the Schools Block to the High Needs Block and to delegate the approval of the associated investment plans to the Strategic Director of People Services following consultation with the Director of Financial Services.
- f) The use of the Dedicated Schools Grant Reserve to the value of £0.200m to support the 2020/21 Dedicated Schools Grant Budget.

### **3. To delegate:**

- Approval to the Director of Financial Services to make necessary adjustments in order to retain a balanced budget for 2020/21.
- Approval to the Director of Financial Services following consultation with the Cabinet Member for Finance and Procurement to permit movement of

schemes (detailed within the 3 year capital approved programme) within and between financial years to facilitate delivery and agility in Capital Programme delivery. These to be subsequently reported in the quarterly financial monitoring reports.

## 148/19 Treasury Management and Investment Strategy

The Council Cabinet considered a report which sought approval of the Council's Treasury Management Strategy for the financial year 2020/21 and the Treasury Management Indicators derived from this strategy. The report included:

- Background and context
- The Treasury Management Strategy
- Treasury Management Indicators
- Investment Strategy (Appendix 1)

The Executive Scrutiny Board noted the report.

### **Decision**

1. To approve and recommend to Council the Treasury Management Strategy for 2020/21 outlined in paragraphs 4.26 to 4.64 of the report.
2. To approve and recommend to Council the Treasury Management Indicators for 2020/21 to 2022/23 in paragraph 4.65 to 4.70 of the report.
3. To delegate authority to the Director of Financial Services to amend investment levels following appropriate advice from the Council's treasury advisors as detailed in paragraph 4.55 of the report.
4. To approve and recommend to Council the Investment Strategy for 2020/21 outlined in the report attached at Appendix 1 at paragraphs 1.11 to 1.22 of the report.
5. To approve and recommend to Council the Investment Indicators for 2020/21 to 2022/23 outlined in the report attached at Appendix 1 in paragraph 1.23 to 1.30 of the report.
6. To approve and recommend to Council the Investment approach for Commercial or Social Return outlined in the report attached at Appendix 1 in paragraphs 1.7 to 1.10 of the report.

### **Performance**

## 149/19 Local Government and Social Care Ombudsman Report Complaint Against Derby City Council (Ref No 18 015 698)

The Council Cabinet considered a report which stated that The Local Government and Social Care Ombudsman had concluded an investigation into a complaint made against Derby City Council by a parent of a child with Special Educational Needs. The complaint related to excessive delays in producing a final Education, Health and Care Plan (EHCP) for the child and the child being out of education for a prolonged period of time.

The Ombudsman investigation related to a historic case which was complex in nature. Throughout the process, there was input from number of professionals, organisations and panels, including the SEND Team, Education Welfare Service, the child's school, the child's community paediatrician, the SEND Tribunal Panel, and Resource Allocation Panel.

The Local Government and Social Care Ombudsman report had been available to view on its website from 6 February 2020. As required, the Council would publish a public notice in the local press within two weeks of the Ombudsman report being published.

The key findings of the Ombudsman investigation could be summarised as follows:

**EHCP Assessment:** The investigation found that there was an excessive delay in the Council completing an EHCP assessment for the child.

It was fully accepted that, for this child, the EHCP assessment process took far too long to complete. Lessons had been learnt and processes had been tightened in an attempt to avoid any such delays in future assessments. Additional training had been provided for the SEND Team on statutory timescales.

**Alternative Education:** The child received no education due to the fault of the Council from October 2016 until September 2018.

Significant attempts were made by professionals to re-engage the child in education and the Education Welfare Service and school both tried to liaise with the parent at home. The school involved an Educational Psychologist. It was, however, accepted that, additional steps should have been taken to engage with the situation. Some form of alternative education should have been provided. The Council's Children Missing Education Policy had now been updated to specifically cover issues relating to children and young people with SEND. The updated policy was approved by Council Cabinet on 10 October 2018.

The Council must consider the Ombudsman report and confirm, within three months, the action it had taken or proposed to take. The Council should consider the report at its full Council, Cabinet or other appropriately delegated committee of elected members.



The following actions, which officers were broadly in agreement with, represent a proportionate response, had been recommended by the Ombudsman, subject to Council Cabinet approval:

- Pay the child £7,200 for being out of education and without SEN provision for approximately 18 months.
- Pay the parent £500 for their distress and time and trouble in pursuing the complaint.
- Pay the parent £675 for the cost of the occupational therapy report.
- Arrange staff training on:
  - a. Statutory timescales for producing EHC plans;
  - b. The need to properly consider all evidence available and give reasons for rejecting evidence provided by parents;
  - c. The statutory duty to provide suitable education when a child is absent from school due to illness, exclusion or otherwise; and
  - d. The need to properly review events in accordance with those statutory duties when a complaint is made.

The Ombudsman had advised that it considered the above actions to be an appropriate remedy to the complaint.

In addition, the following actions had also been completed:

- The Council's Children Missing Education (CME) Policy had been updated and was approved by Council Cabinet on 10 October 2018.
- The Council had undertaken a full review of the complaints process and a new Customer Feedback Policy was approved by Council Cabinet in April 2019.
- An Education Health and Care Plan LEAN Review took place in November 2019, with support from a Department for Education Adviser.
- Updated guidance had been produced for children who could not attend school for health reasons.

The purpose of the report was to provide an overview of the key findings of the Local Government and Social Care Ombudsman investigation and to set out the lessons learnt. A number of actions had already been taken to improve and strengthen processes in relation to particularly complex cases.

The Executive Scrutiny Board noted the report.

## **Decision**

1. To approve the findings set out in the Local Government and Social Care Ombudsman report and to approve the following recommendations:
  - Pay the child £7,200 for being out of education and without SEN provision for approximately 18 months.
  - Pay the parent £500 for their distress and time and trouble in pursuing the complaint.
  - Pay the parent £675 for the cost of the occupational therapy report.

- Arrange staff training on:
  - a. Statutory timescales for producing EHC plans;
  - b. The need to properly consider all evidence available and give reasons for rejecting evidence provided by parents;
  - c. The statutory duty to provide suitable education when a child was absent from school due to illness, exclusion or otherwise; and
  - d. The need to properly review events in accordance with those statutory duties when a complaint is made.
- 2. To approve that the Local Government and Social Care Ombudsman considers the actions set out to be an appropriate remedy to the complaint.
- 3. To note the additional actions that had already been carried out, to strengthen processes.
- 4. To note the requirement for full Council to consider the recommendations of Council Cabinet on this matter.

## 150/19 Council Delivery Plan Monitoring – Quarter 3

The Council Cabinet considered a report which stated that in July 2019, Council approved the Council Plan 2019 – 2023, with Council Cabinet approving the supporting Council Delivery Plan in the same month. The underpinning performance framework and priority targets were approved in September 2019.

The report presented a consolidated overview of performance; bringing together priority performance measures, projects and strategic risks, in line with the Council Plan themes along with progress on Delivery Plan actions.

At the end of Q3 (December 2019), 59% of our priority performance measures were forecasted to improve from the positions reported at the end of March 2019, with 76% of our supporting Delivery Plan actions being evaluated as 'on track'. 78% of the 18 priority projects were rated as either 'green' or 'amber/green,' and for our thirteen strategic risks, 100% of controls were assessed as established.

A summary of notable performance issues was set out in paragraphs 4.3 to 4.19, with a full assessment of performance by Council Plan theme at Appendix 1 of the report.

The Executive Scrutiny Board noted the report.

### **Decision**

To note the latest performance position, paying particular attention to our strategic risks and emerging priorities for improvement.

## 151/19 Exclusion of the Press and Public

**Resolved 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 on the grounds that they involved the likely disclosure of exempt information as defined in paragraph 3 and 7 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.**

## **Contract and Financial Procedure Matters**

### **152/19 Compliance with Contract and Financial Procedure Rules**

The Council Cabinet considered a report which dealt with the following item which required reporting to and approval by Council Cabinet under the Contract and Financial Procedure Rules.

- Acceptance of a grant subject to suitable conditions.

The Executive Scrutiny Board noted the report.

#### **Decision**

To approve the delegation of authority to the Strategic Director of Communities and Place, following consultation with the Director of Financial Services and Cabinet Member for Strategy and Policy, to accept a grant for 2020/21 subject to acceptable grant conditions, as outlined in section 4.1 of the report.

## **Performance**

### **153/19 Street Lighting PFI Contract – Performance Review**

The Council Cabinet considered a report which set out the position in relation to a performance review of the Street Lighting PFI contract.

The Executive Scrutiny Board noted the report.

#### **Decision**

To approve the recommendations set out in paragraphs 3.1 to 3.3 of the report.

**MINUTES END**