

Meeting	Executive
Date	26 September 2019
Present	Councillors Aspden (Chair), Ayre, Craghill, Cuthbertson, D'Agorne, Runciman, Smalley, Waller and Widdowson
In Attendance	Councillor Perrett (in place of Cllr Myers)

PART A - MATTERS DEALT WITH UNDER DELEGATED POWERS

37. Declarations of Interest

Members were asked to declare at this point in the meeting any personal interests not included on the Register of Interests, or any prejudicial or disclosable pecuniary interests, that they might have in the business on the agenda. No additional interests were declared.

38. Exclusion of Press and Public

Resolved: That the press and public be excluded from the meeting should Members wish to discuss Annex 3 to Agenda Item 11 (Interpretation of the Law – ‘Out of Town’ Licences), on the grounds that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information). This information is classed as exempt under Paragraph 3 of Schedule 12A to Section 100A of the Local Government Act 1972 (as revised by the Local Government (Access to Information) (Variation) Order 2006).

39. Minutes

Resolved: That the minutes of the Executive meeting held on 29 August 2019 be approved and then signed by the Chair as a correct record.

40. Public Participation

It was reported that there had been five registrations to speak at the meeting under the Council's Public Participation Scheme and two requests to speak by Ward Members.

Alasdair McIntosh spoke on Agenda Item 6 (Reducing York's Carbon Footprint with Electric Vehicles). He voiced concern that the Hyper hubs were not currently usable by most EV owners and suggested ways in which he felt additional on-street chargers could provide a lower-cost and more immediate solution.

Mr Peter Richardson also spoke on Item 6, expressing the view that the only solution to increasing carbon emissions was a reduction in the population. He then referred to other matters, objecting to the level of social care precept and to the idea of a tax on visitors to York.

Cllr Pavlovic, Member for Hull Road Ward, spoke on Agenda Item 8 (Housing Delivery Programme), criticising the programme on the grounds that it failed to address the lack of affordable housing in the city and the loss of social housing due to 'right to buy' sales.

Hon Ald. Brian Watson spoke on Agenda Item 9 (Review of the Constitution and Governance Procedures), urging Executive to support a return to the committee system. Referring to the minutes of the previous meeting, he also called for more Member oversight of the York Central and My City Centre projects.

Gwen Swinburn also spoke on Item 9, welcoming the review of governance procedures while querying the lack of detail in the report and suggesting that full terms of reference be prepared before any tender was sought.

Drew Thompson spoke on Agenda Item 11 (Interpretation of the Law – 'Out of Town' Licences), as a member of York Private Hire Association. He asked that the decision on this item be deferred to the November meeting to enable all relevant facts to be gathered.

Cllr Warters, Member for Osbaldwick & Derwent Ward, also spoke on Item 11, objecting to the proposals and urging

Executive either to approve Option 2 in the report or defer the decision.

41. Update on City of York Council preparations for Brexit

The Head of Corporate Policy & City Partnerships presented a report which provided an update on the City of York Council's preparations for the UK's exit from the European Union ('Brexit'), following the extension of the exit deadline to 31 October.

The report examined the planning that had taken place before the original 29 March deadline, and whether there were any areas for improvement to ensure that the council and the city were best prepared for either a transitional exit or a 'no deal' scenario. Since announcement of the delay, work had continued to ensure that services were available for those requiring support, in particular with regard to the EU settlement scheme. Meetings with city partners and liaison with community groups had also continued, and the Head of Corporate Policy & City Partnerships had been appointed as the designated lead on no-deal planning. Members were invited to note the preparations and / or make suggestions for alternative or additional activities.

Members expressed their concerns about the current uncertainty of the Brexit situation and the lack of information from national government. In these circumstances it was important for the council to do all it could to protect and support local jobs, businesses and communities.

Resolved: That the contents of the report, and the council's preparations for the UK's exit from the European Union, be noted.

Reason: To confirm that the Executive is sighted on the preparations that have taken place in advance of Brexit.

42. Reducing York's Carbon Footprint with Electric Vehicles

[See also under Part B]

The Assistant Director of Transport, Highways & Improvement presented a report which provided an update on progress of the project to deliver 'Hyper hub' facilities for the rapid charging of electric vehicles (EVs) at Poppleton Bar and Monks Cross (the project), and sought approval to procure a contract for their supply and installation.

The project had been approved by Executive on 18 March 2019 (Minute 130 of that meeting refers). Initial market engagement had made it clear that the cost would be higher than originally forecast, and a further £700k was being sought from a number of sources, including the Local Enterprise Partnership (LEP) and European Regional Development Fund (ERDF). This would require match funding of £400k from the council. Despite this increase, the importance of the project remained. Hyper hubs were a cornerstone of the city's future EV charging estate, providing a sustainable and inclusive solution for EV owners with no off-street parking and allowing control over tariffs, to ensure a fair cost of charging for residents, businesses and visitors.

Two options were available:

Option 1 – to approve supplementary funding to move forward with the project, as recommended.

Option 2 – to ask officers to develop proposals for a reduced scheme. This would reduce the carbon reduction potential of the project.

In response to questions from Members and comments made under Public Participation, officers confirmed that:

- Opportunities would be sought to mitigate the council's additional contribution.
- Suggestions made at the meeting in relation to on-street charging could be addressed in preparing the report on the EV charging strategy referred to in recommendation (v).
- Officers were also examining different fuel types as a way of reducing carbon emissions.

Resolved: (i) That the progress of the Hyper hubs project be noted.

(ii) That approval be given to proceed with the procurement of a contract for the supply and installation of the hyper hubs and that authority be delegated to the Assistant Director of Transport, Highways & Environment, in consultation with the Assistant Director of Legal & Governance or his / her delegated officers, to take such steps as are necessary to award and enter into the resulting contract for the delivery of the Hyper hubs project, with the proviso that, if the scheme needs to be tailored to the available budget, this be brought back to Executive in a further report.

(iii) That the approach to the wider estate and progress on fixing the council's current Electric Vehicle (EV) charging assets, as set out in the report, be approved.

(iv) That officers be asked to develop the principles set out in the report, along with the comments, into a formal Public EV Charging Strategy to be brought to a future Executive meeting.

(iv) That the fees for parking in EV bays be included in the budget proposals for 2020/21.

Reason: In order to move forward and implement an EV charging infrastructure that meets the Council's ambitions in terms of carbon reduction, promoting sustainable transport and increasing the use of electric vehicles to improve air quality in the city.

43. Re-procurement of Primary Care Contraception Service

The Director of Public Health presented a report which outlined options for ensuring the continued provision of Long Acting Reversible Contraception (LARC) within the local population from 1 April 2020 onwards.

LARC was currently commissioned through a Section 75 agreement with Vale of York Clinical Commissioning Group (VoYCCG), with VoYCCG acting as commissioner on behalf of City of York Council (CYC) and services provided by

NimbusCare. Rather than a 'block' contract to deliver a specific, broadly defined service, payment was provided for each LARC fitted. With demand increasing year on year, this put CYC at risk of exceeding statutory limits for spend not aligned to a formal tender process, because LARC provision could not be rationed according to budget availability.

The following options were available:

Option 1 – VoYCCG to delegate the exercise of its LARC function to CYC, which would then lead commission a service. This was the recommended option.

Option 2 – CYC to commission its own LARC service independent of VoYCCG.

Option 3- CYC and VoYCCG to enter into a form of joint procurement of LARC services.

Option 4- CYC to delegate the exercise of its LARC function to VoYCCG, which would then lead commission a service.

Resolved: (i) That Option 1 be approved, enabling a joint commissioning approach for the provision of Long Acting Reversible Contraception (LARC) between City of York Council (CYC) and NHS Vale of York Clinical Commissioning Group (VoYCCG).

Reason: To ensure that CYC meets its mandated responsibility to provide LARC to women in York through effective and efficient joint commissioning arrangements.

(ii) That approval be given to procure LARC through a competitive tendering process, to secure provision for the proposed duration of commissioned activity, from 1 April 2020 to 31 March 2026.

Reason: To provide adequate resources and duration of contract to ensure that provision of LARC within York is equitable and sustainable.

(iii) That authority to award a contract to the preferred bidder be delegated to the Director of Public Health, in consultation with the Executive Member for Health and Adult Social Care.

Reason: To enable the contract to be awarded in a timely manner and allow maximum time for mobilisation of the new service to commence from 1 April 2019.

44. Housing Delivery Programme Update

The Head of Housing Delivery presented a report which explained the work that had taken place to enable the objectives of the Housing Delivery Programme (the Programme) to be met, and what needed to be done next.

Since approval of the Programme vision by Executive on 12 July 2018 (Minute 16 of that meeting refers), planning permission had been obtained for 165 new homes and other facilities on Lowfield, including 40% affordable housing, and a grant of £1,466,800 had been secured for the site. Construction had begun on 8 football pitches on the former Ashfield Estate to replace those at Lowfield; new external support, including a multi-disciplinary design team, had been procured; and Duncombe Barracks had been purchased.

Approval was now sought for a new Design Manual setting the standards to support the ambitions of the Programme, including sustainable communities and wider social objectives (Annex B), for a 3-phase public engagement programme that would work closely with communities from the start of the process (paragraph 13) and for a brand name and a sales strategy (Annex C), through which to market the new homes effectively. It was also proposed to transfer resources previously allocated to the Askham Bar site to the site at Ordnance Lane / Hospital Fields Road and bring forward Askham Bar at a later stage, as detailed in the programme timescales set out in paragraphs 23-26.

In response to matters raised under Public Participation, the Executive Member for Housing & Safer Neighbourhoods acknowledged the affordability gap in the city; the Programme was a step in addressing this.

Resolved: (i) That the progress made on Lowfield, Ashfield football pitches and Duncombe Barracks, and the procurement of a design team to assist in delivering the objectives of the Housing Delivery Programme, be noted.

(ii) That the 'Building Better Places' Design Manual attached as Annex B to the report be approved as the new set of standards for the Housing Delivery Programme.

(iii) That the 'Shape Homes York' brand, and the creation of a website to support the council's open market and shared ownership sales, be supported.

(iv) That the proposed approach for:

- site based business case development
- the setting of open market and shared ownership sales prices (supported by RICS valuations and guidance from procured sales agents) and
- agreeing sales, including the associated delegated authorities (see Annex C), with quarterly sales reports to be presented to the Section 51 Officer and the Executive be supported.

(v) That the proposed new public engagement strategy for the Programme be approved, to ensure that the voices of York's communities are heard and responded to.

(vi) That approval be given to re-allocate the budget approved by Executive on 12 July 2018 for detailed design work to develop and submit a planning application for the Askham Bar site (Resolution (iv) in Minute 16 of that meeting refers) to undertake instead the equivalent work at the Ordnance Lane and Hospital Fields Road site, and to bring forward the Askham Bar site as part of a later phase of development.

(vii) That the proposed timetable for the submission of planning applications and a business case for Burnholme, Duncombe Barracks and Ordnance Lane / Hospital Fields Road be noted.

Reason: To progress with the building, rental and sale of much needed new homes in York, set within healthy and sustainable new neighbourhoods.

45. **Review of the Constitution and Governance Procedures**

The Interim Assistant Director, Legal & Governance presented a report which set out proposals for undertaking a review of the Council's Constitution and Governance arrangements.

The Council was required regularly to review its governance arrangements, including the decision-making structures set out in the Constitution, to ensure that all decisions were taken within its powers and in accordance with legal requirements. The following options were available, as detailed in paragraph 9 of the report:

Option 1 – do nothing. This was not recommended.

Option 2 (recommended) – undertake a staged review, with Stage 1 to review the Constitution document to ensure it was accurate and up to date; Stage 2 to review the Council's formal governance arrangements, including consideration of the decision-making systems available under the Localism Act 2011 and their possible variations; Stage 3 to amend the Constitution to reflect any new governance arrangements agreed by Full Council.

Option 3 – undertake Stages 1 & 2 of the review together. This was not recommended as it would not meet the obligation to have good governance in place pending the conclusion of stage 2.

Having noted the comments made under Public Participation on this item, it was

Resolved: (i) That the proposals to review the Council's Constitution and Governance arrangements using a 3-stage approach, as detailed in Option 2 at paragraph 9 of the report, be approved.

(ii) That the review of the Constitution include consideration of the provisions regarding key decisions, to ensure that the legal requirements are met.

(iii) That the Terms of Reference for Stage 2 of the review (governance arrangements) be agreed by the Leader and Deputy Leader, in consultation with the Chair of Audit & Governance Committee.

Reason: To facilitate an expedited review of the Constitution document to ensure it is accurate and effective, and to enable a thorough and robust review of the Governance arrangements, taking into account the impact of any potential changes on all interested parties.

46. **Update on Taxi Licensing Policy**

The Corporate Director of Economy & Place and the Head of Public Protection presented a report which asked Executive formally to adopt proposed amendments to the council's Taxi Licensing Policy in relation to driver training and determining the suitability of drivers.

The proposals followed a request from Council Leaders of the five West Yorkshire Authorities and the City of York for authorities to harmonise their taxi licensing policies. On 15 July 2019, the Licensing & Regulatory Committee had recommended that Executive adopt the new training policy summarised in paragraph 12 of the report and attached in full at Annex 1. New applicants would have to undertake and pass the training before being licensed; existing drivers to attend refresher courses every three years. The Committee had also recommended adoption of a strengthened policy in relation to suitability, with particular regard to previous convictions, as summarised in paragraph 14 and attached at Annex 2, to come into effect from 1 October. This policy was in line with new guidance issued by the Institute of Licensing. Summaries of the responses to consultation on the proposed policies were attached at Annexes 3 and 4.

Taking into account the consultation responses, the following options were available:

Option 1 – adopt the proposed policy changes in relation to driver training and determining the suitability of applicants and licensees.

Option 2 – make further amendments before adopting the policies.

Option 3 – determine that no change is required to current policy.

In response to questions from Members, officers confirmed that:

- The proposals would help standardise driver conduct and greatly assist enforcement action across the region.

- Work was ongoing towards introducing minimum requirements in respect of local knowledge.
- Compliance with anti-idling measures could be included in the training.

Resolved: That Option 1 be approved and the amendments to the Taxi Licensing Policy be adopted.

Reason: To allow the council to align policies in relation to training and suitability with the West Yorkshire authorities, which will help ensure that people across the six authority areas are transported safely and protected from harm to standards applied consistently across the area.

47. Interpretation of the Law – ‘Out of Town’ Licences

The Corporate Director of Economy & Place and the Head of Public Protection presented a report which outlined the council’s interpretation of the law in relation to the ability of private hire operators and drivers to work their vehicles ‘out of town’ – that is, outside the area within which they were licensed.

The council’s current legal position, summarised in paragraph 3 of the report, was that, provided the three licences required for a private hire vehicle (operator, driver and vehicle) had all been issued by the same authority, the vehicle could undertake journeys anywhere in England and Wales. This ‘triple licensing rule’ had been confirmed by external legal advice, as detailed in the report and the advice note at Annex 2 dated 5 March 2019. Legal advice commissioned by the York Private Hire Association in November 2018, as attached at Annex 1, had taken a contrary view.

The options available were:

Option 1 – to follow the council’s legal advice and agree the legal position outlined in paragraph 3, with no change to the Taxi Licensing Policy. The situation could be reviewed in the event of a change in the law. This was the option recommended in the report and by the Licensing & Regulatory Committee when they considered the report at their meeting on 4 September 2019.

Option 2 – disregard the advice, adopt the position that ‘out of town’ operators / drivers work in York illegally, and make a statement to that effect in the Policy. This was not

recommended, as it would risk successful legal challenge and / or simply being ignored.

After a full debate, and having noted the comments made under Public Participation on this item, it was

Resolved: (i) That Option 1 be approved, and the legal position outlined in paragraph 3 of the report be confirmed, with no changes required to the Taxi Licensing Policy.

Reason: To provide clarity for the public in relation to the council's interpretation of the law, and to avoid an increase in the risk of a major impact on the service, which could cost over 10% of the Public Protection budget.

(ii) That, endorsing the recommendations of the Licensing & Regulatory Committee, officers should explore potential options to improve enforcement actions across the city, particularly in relation to poor practice by private hire vehicles; for example, improving enforcement against such vehicles parking in hackney carriage taxi ranks or in restricted areas.

Reason: To address concerns raised about the behaviour of some operators.

(iii) That it be noted that this is an issue faced by many authorities across the country and, noting specifically Medway Council's decision to secure additional legal advice on this matter, support be given pending consideration of this to working with a number of local authorities, and the Local Government Association, to ensure that the council's position is kept under review and reflects the most up to date situation.

Reason: To ensure confidence in the council's legal position on taxi licensing issues.

48. York Outer Ring Road Improvements Update

[See also under Part B]

The Assistant Director of Transport, Highways & Improvement presented a report which sought decisions in respect of funding and land acquisition to deliver improvements at the A1237/Clifton Moor roundabout and Monks Cross Junction, as part of the York Outer Ring Road (YORR) improvement scheme.

Progress had been made in a number of areas, as listed in paragraph 12 of the report. However, since Executive approval of the approach to the scheme on 13 July 2017 (Minute 21 of that meeting refers), a number of changing conditions and challenges had arisen. As a result, a slightly different approach was required, to align land acquisition more effectively and co-ordinate funding approaches with planning decisions or seek alternative funding. The issues were discussed in the body of the report and involved the options for the design of the Clifton Moor Junction (paragraphs 23-26) and the need to seek in-principle authority for the making of Compulsory Purchase Orders to acquire land for the scheme (paragraphs 27-42).

The current estimated cost of the Clifton Moor roundabout upgrade scheme was £7m, funded by a bid for a Housing Infrastructure Fund (HIF) grant of £5m and a West Yorkshire Plus Transport Fund (WY+TF) grant of £2m. If external funding was not available in advance, it was proposed that the council fund the additional cost through borrowing of up to £5m.

Resolved: (i) That the potential grant award of around £26m from the Department for Transport (DfT) for upgrading the A1237 (Phase 1 Dualling: Rawcliffe to Hopgrove), and the need to co-ordinate planning and design work on the current junction upgrade programme, be noted.

Reason: To confirm that the Executive is aware of the potential impacts of co-ordinating design and construction on the YORR programme.

(ii) That the inclusion in Transport for the North's Regional Evidence Base submission to the DfT of a scheme to dual the A1237 from A19 Rawcliffe to

B1223 Wetherby Road (Phase 2 Dualling: Rawcliffe to Wetherby Road) be noted.

Reason: To confirm that the Executive has been informed about the current status of proposals for dualling sections of the A1237 York Outer Ring Road (YORR).

(iii) That officers be instructed to investigate options for the introduction of further measures across the city to lock in the sustainable transport and environmental benefits that could result from the increased capacity provided by dualling the A1237.

Reason: To ensure that the potential for significant sustainable transport and environment benefits resulting from the dualling of the YORR are investigated further, with options presented to Members for future decision.

(iv) That, subject to Council approval of the recommended budget (*Minute 51 refers*), approval be given to procure a contractor to undertake the civil engineering and associated construction works and authority be delegated to the Assistant Director for Transport, Highways and Environment, in consultation with the Assistant Director of Legal & Governance or his / her delegated officers, to take such steps as are necessary to award and enter into the resulting contract, with the final layout being subject to the approval of the Executive Member for Transport following consideration of a report reviewing the landscaping, drainage and highway integration for east-west cycling and walking routes and options for the Hurricane Way B&Q junction.

Reason: To enable the procurement process for a contractor to be undertaken and the resulting contract awarded.

(v) That officers be requested to identify opportunities to reduce the City of York Council's contribution through external funding (HIF, developer contributions etc.) which, if successful, will reduce overall CYC borrowing.

Reason: To reduce the council's overall financial contribution.

(vi) That approval be given in principle to pursue a Compulsory Purchase Order (CPO) using powers contained in Part XII of the Highways Act 1980 to acquire the land edged red on the plan attached as Annex C to the report, which is required to deliver the Monks Cross Junction improvements.

Reason: To enable Executive to consider a report in December seeking authority to make the Order, should continuing negotiations to acquire the land not be successful.

(vii) That authority be delegated to the Assistant Director of Transport, Highways and Environment to take all steps necessary to prepare for the CPO referred to in resolution (vi) above, this delegation to include:

- negotiation of easements and temporary rights where freehold ownership is not required, e.g. for drainage purposes or temporary occupation for construction works, and
- obtaining the release / extinguishment or variation of any third party rights over affected land (for example, a third party may have a right of way over land which needs to be acquired).

Reason: To ensure that, in the event of a final resolution to make the Order, the council is in a position to make it as soon as is practicable.

(viii) That the delegated authority of the Assistant Director of Transport, Highways & Environment to purchase land by private agreement / private treaty be extended from £200k to £250k in any one land interest.

Reason: To enable the Assistant Director to negotiate the acquisition of land by private agreement / private treaty in an efficient and timely manner to support the planning, development and delivery of the YORR Improvement scheme.

PART B - MATTERS REFERRED TO COUNCIL

49. Reducing York's Carbon Footprint with Electric Vehicles

[See also under Part A]

The Assistant Director of Transport, Highways & Improvement presented a report which provided an update on progress of the project to deliver 'Hyper hub' facilities for the rapid charging of electric vehicles (EVs) at Poppleton Bar and Monks Cross (the project), and sought approval to procure a contract for their supply and installation.

The project had been approved by Executive on 18 March 2019 (Minute 130 of that meeting refers). Initial market engagement had made it clear that the cost would be higher than originally forecast, and a further £700k was being sought from a number of sources, including the Local Enterprise Partnership (LEP) and European Regional Development Fund (ERDF). This would require match funding of £400k from the council. Despite this increase, the importance of the project remained. Hyper hubs were a cornerstone of the city's future EV charging estate, providing a sustainable and inclusive solution for EV owners with no off-street parking and allowing control over tariffs, to ensure a fair cost of charging for residents, businesses and visitors.

Two options were available:

Option 1 – to approve supplementary funding to move forward with the project, as recommended.

Option 2 – to ask officers to develop proposals for a reduced scheme. This would reduce the carbon reduction potential of the project.

In response to questions from Members and comments made under Public Participation, officers confirmed that:

- Opportunities would be sought to mitigate the council's additional contribution.
- Suggestions made at the meeting in relation to on-street charging could be addressed in preparing the report on the EV charging strategy referred to in recommendation (v).

- Officers were also examining different fuel types as a way of reducing carbon emissions.

Recommended: That Council approve an increase in the budget of £700k, including £400k additional prudential borrowing, to fund the increased cost of the Hyper hubs project.

Reason: In order to move forward and implement an EV charging infrastructure that meets the Council's ambitions in terms of carbon reduction, promoting sustainable transport and increasing the use of electric vehicles to improve air quality in the city.

50. York Outer Ring Road Improvements Update

[See also under Part A]

The Assistant Director of Transport, Highways & Improvement presented a report which sought decisions in respect of funding and land acquisition to deliver improvements at the A1237/Clifton Moor roundabout and Monks Cross Junction, as part of the York Outer Ring Road (YORR) improvement scheme.

Progress had been made in a number of areas, as listed in paragraph 12 of the report. However, since Executive approval of the approach to the scheme on 13 July 2017 (Minute 21 of that meeting refers), a number of changing conditions and challenges had arisen. As a result, a slightly different approach was required, to align land acquisition more effectively and coordinate funding approaches with planning decisions or seek alternative funding. The issues were discussed in the body of the report and involved the options for the design of the Clifton Moor Junction (paragraphs 23-26) and the need to seek in-principle authority for the making of Compulsory Purchase Orders to acquire land for the scheme (paragraphs 27-42).

The current estimated cost of the Clifton Moor roundabout upgrade scheme was £7m, funded by a bid for a Housing Infrastructure Fund (HIF) grant of £5m and a West Yorkshire Plus Transport Fund (WY+TF) grant of £2m. If external funding

was not available in advance, it was proposed that the council fund the additional cost through borrowing of up to £5m.

Recommended: That Council approve a budget of £7m for the 'enhanced option' upgrading of the Clifton Moor junction, to be funded from £2m West Yorkshire Transport Fund contribution and £5m prudential borrowing, the revenue costs of which will be incorporated in the 2020/21 Revenue Budget.

Reason: To enable the construction of an upgraded junction which will be future proofed to provide access to a proposed new development site, shown in the Draft Local Plan, for approximately 1,350 new homes, new cycle and pedestrian networks, and accommodating dualling of the A1237; in addition, delivering a single enhanced scheme will minimise traffic disruption and the abortive work that would result from delivering the WYTF and development schemes separately.

Cllr K Aspden, Chair

[The meeting started at 5.30 pm and finished at 7.37 pm].