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| Meeting       | Executive  |
| Date          | 18 July 2019   |
| Present       | Councillors Aspden (Chair), Ayre, Craghill, Cuthbertson, D'Agorne, Runciman, Smalley, Waller and Widdowson |
| In Attendance | Councillor Perrett (in place of Councillor Myers)  |

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## **PART A - MATTERS DEALT WITH UNDER DELEGATED POWERS**

### **10. 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.

Cllr Ayre declared a personal, and possibly prejudicial, interest in Agenda Item 9 (The Provision of School Place and Allocation of School Capital Budgets 2019-2023 to Address Secondary School Place Pressures), as his daughter attended one of the schools receiving funding. He left the room during consideration of that item and took no part in the debate or decision thereon.

### **11. Exclusion of Press and Public**

Resolved: That the press and public be excluded from the meeting during consideration of Annex D to Agenda Item 12 (Council Supported Local Bus Services), on the grounds that it contains information relating to the financial or business affairs of particular persons (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).

## **12. Minutes**

Resolved: That the minutes of the Executive meeting held on 27 June 2019 be approved and then signed by the Chair as a correct record.

## **13. Public Participation**

It was reported that there had been six registrations to speak at the meeting under the Council's Public Participation Scheme.

Wendy Loveday, Chair of York Private Hire Association, spoke on changes to the council's taxi licensing policy, a matter listed on the Forward Plan (Agenda Item 5). She expressed concern at the delay in bringing this to the Executive and queried the need to change the policy instead of prosecuting Uber drivers under existing legislation.

Gwen Swinburn spoke on Agenda Items 5 (Forward Plan) and 7 (Developing the Next Council Plan). On the former she welcomed the items on the allocation of ward funding and the Review of the Constitution; on the latter she expressed the hope for a strong focus on the approach to achieving the Plan outcomes, referring to paragraph 14g of the report.

Dave Merrett spoke on Agenda Item 6 (York Central Partnership Update), on behalf of York Central Action and York Environment Forum Transport Group. He highlighted the transport challenges brought by the development and pressed for alternative solutions focused on bus and cycle networks and rail access.

Andrea Dudding spoke on Agenda Item 8 (Children in Care Residential Commissioning Plan), on behalf of UNISON. She welcomed the report, but urged Executive to reject the appointment of external providers for residential services, arguing that provision in-house would bring fewer risks to the council and more opportunities for staff.

Lorna Savage spoke on Agenda Item 9 (The Provision of School Places and Allocation of School Capital Budgets 2019-23), as head teacher of Fulford School and on behalf of Archbishop Holgate School. She highlighted the pressures facing both schools due to increasing demand for places, and urged Members to support the proposals in the report.

Graham Cheyne spoke on Agenda Item 11 (Public Rights of Way – Review of Definitive Map Processes etc.), as the instigator of the original complaint from which the review had arisen. He welcomed the proposals in the report, but suggested that the new apprentice / trainee be appointed immediately rather than next April.

#### **14. Forward Plan**

Members received and noted details of the items that were on the Forward Plan for the next two Executive meetings at the time the agenda was published.

#### **15. York Central Partnership Update**

The Assistant Director for Regeneration & Asset Management presented a report which gave an update on the York Central Partnership (YCP), responded to the decision of the Secretary of State not to call in the planning decision taken on the York Central site and sought approval to submit a Reserved Matters application for the first phase of the enabling infrastructure.

This item had been added to the agenda under statutory urgency procedures, as it involved a key decision and had been on the Forward Plan for less than 28 days. The reason for the urgency was the need to respond to the Secretary of State's decision, and consider financial options to continue work on the project, within timescales, in the absence of a decision by the Ministry of Housing, Communities and Local Government (MHCLG) on the application for £77.1m from the Housing Infrastructure Fund (HIF).

Members considered three options to proceed beyond July, as summarised below and detailed in paragraphs 17-24 of the report:

**Option 1** – mothball the project until HIF funding was announced (cost: £300k to November). Not recommended, as the delay could increase the risk of cost escalation to an unacceptable level.

**Option 2** – undertake ECI through a PSC contract and finalise the RMA (cost: £750k to end of November). This was the recommended option.

**Option 3** – continue the Full Design work at risk (cost: £2.3m to December). Not recommended, due to the significant cost increase.

It was also proposed that the £1.25m approved to release for early enabling works (Minute 92 of the Executive meeting on 17 January 2019 refers), remain unallocated until there was certainty on external funding. A further report would be brought to Executive in the autumn to consider plans beyond November 2019.

Details of the scheme's intrinsic social, environmental and economic benefits, including improvements to sustainable transport, would be secured through conditions on the outline planning permission and a comprehensive S106 agreement. Meanwhile officers would continue their dialogue with YCP to explore opportunities to amplify these benefits and report back to Executive, as set out in paragraph 36.

Members broadly welcomed the report and, having detailed some additions to the recommendations and noted the comments made under Public Participation, it was

- Resolved:
- (i) That Option 2 be approved, and £750k be allocated to fund Early Contract Involvement (ECI), further design work and finalisation of a Reserved Matters Application (RMA) for the first phase of infrastructure, including the primary access into the site, new bridge / spine road, drainage, construction of an additional pedestrian and cycle deck onto Severus Bridge and construction of a new rail connection between the NRM and the East Coast Main Line (ECML), to be funded partly from the allocated York Central CYC capital budget (£451k) and Homes England funding (£335k).
  - (ii) That the £1.25m budget provision previously agreed specifically for early site works be cancelled, with this funding now returned to the remaining unallocated funding for York Central.
  - (iii) That approval be given to seek financial contributions towards the budget for up front design work from York, North Yorkshire and East Riding (YNYER) Local Economic Partnership (LEP), Leeds

City Region (LCR) LEP and YCP ahead of the agreement for HIF funding.

(iv) That the decision to undertake the further design works outlined in Option 3, over and above those set out in Option 2, be delegated to the Deputy Chief Executive in consultation with the Executive Leader, subject to the agreement of additional funds from YNYER LEP, LCR LEP, YCP or the award of HIF funding.

(v) That the final sign-off of the RMA for the delivery of the Phase 1 infrastructure be delegated to the Director of Economy and Place in consultation with the Executive Leader and Deputy Leader.

Reason: To ensure the delivery of York Central and to provide funding to enable the progression of the detailed design and planning for a new access route to York Central within the timescale of available grant funding.

(vi) That a further report be brought back to Executive setting out options and proposals to include York Central in the bus Clean Air Zone.

(vii) That, at the earliest point, the council work to deliver a new Bus Lane to become an integral part of the ph1 Infrastructure, ahead of the timescale required by S.106 conditions; this could be built at the same time as the spine road is constructed, improving bus journey times from day 1.

(viii) That further consultation be carried out with local communities, residents and visitors to the site, via a 'MyYorkCentral' style of consultation.

(ix) That the current Occupier Strategy be reviewed to ensure that commercial spaces encourage clean growth and help contribute to carbon reduction in the city.

(x) That all the areas of opportunity to secure greater social economic and environmental benefits to the city indicated under paragraph 36 of the report

be endorsed, and that these areas be explored in greater detail in order to secure those improvements.

Reason: To ensure that the social, environmental and economic benefits of York Central are delivered and are strongly influenced by community engagement.

## **16. Developing the Next Council Plan**

The Head of Corporate Policy & City Partnerships presented a report which outlined a proposed framework for the new Council Plan that would guide activities over the next 4 years and a suggested approach to consultation on developing the detail of the Plan.

The framework, attached as Annex A to the report, was structured around delivery of the following outcomes:

- a) Good health and wellbeing
- b) Well-paid jobs and an inclusive economy
- c) Getting around sustainably
- d) A better start for children and young people
- e) A greener and cleaner city
- f) Building homes and world-class infrastructure
- g) Safe communities and culture for all
- h) An open and effective council.

The completed Plan would provide a vision for the city, specific outcomes to enable the vision, what the council would do to achieve them, and how progress would be measured. Details of the monitoring procedures were provided in Annex B, which had been made available with the agenda online. Consultation would take place from August to mid-September and follow a similar process to that used for projects such as Castle Gateway, as outlined in paragraphs 17-22.

Members welcomed the framework, stressing the importance of the consultation, and having noted the comments made under Public Participation, it was

Resolved: That the Council Plan Outcomes framework be agreed as fit for consultation and that the roll-out of consultation be approved.

Reason: To allow city partners, residents and businesses to contribute to the council's strategic plan for the next 4 years.

## 17. Children in Care Residential Commissioning Plan

*[See also under Part B]*

The Corporate Director, Children, Education & Communities presented a report which recommended actions to develop the city's residential provision for children in care, in order to better meet their future needs and to comply with the council's statutory duty to have sufficient placements for children in care.

Although the number of children in care in York had remained relatively stable, the current residential offer was not sufficient for the increased complexity of need caused partly by young people entering into care later in childhood. The options available to address this gap in meeting the needs of certain cohorts of children were detailed in paragraphs 20-37 of the report and are summarised below:

**Option 1** – maintain the current position. This would not resolve current gaps or improve future sufficiency.

**Option 2** – sell Wenlock Terrace and have no internal residential provision; spot purchase Independent Fostering Agency and residential placements. This would not represent a planned approach to meeting needs and would leave the council vulnerable to market forces.

**Option 3** – purchase three new buildings, adapt Wenlock Terrace to 6 bed Supported Accommodation, procure new external providers to deliver residential services and provide step-down foster care. This was the recommended option.

In response to questions from Members and matters raised under Public Participation, officers confirmed that:

- the proposed arrangements would offer more flexibility;
- a systematic, therapeutic approach to residential provision would improve placement stability and outcomes for individual children;
- the service had been outsourced for many years; indicative costs of bringing provision in-house (para. 22) were based on potential unit costs and staffing costs.

Resolved: (i) That Option 3, which is within the existing revenue budget, be approved.

(ii) That authority be delegated to the Corporate Director, Children, Education & Communities (CEC) to purchase the individual properties required for service delivery within the agreed capital budget.

(iii) That authority be delegated to the Corporate Director CEC to grant, and agree the terms of, a lease of any purchased properties to the council's appointed service providers.

Reason: In order to develop the city's residential provision for children in care and ensure that the council meets its statutory sufficiency duty.

#### **18. The Provision of School Places and Allocation of School Capital Budgets 2019-2023 to Address Secondary Place Pressures**

The Corporate Director, Children Education & Communities presented a report which provided an update on work undertaken to manage the schools capital programme during the period 2019-2023 and recommended an approach to mitigating the risks currently associated with the management of secondary school places in the south and east of the city.

The Local Authority (LA) had a statutory duty to ensure a sufficient supply of good / outstanding places in its local area. Projections had indicated a need for additional places across the city to meet future needs, particularly at secondary level (Years 7-13), as set out in paragraphs 6-12 of the report. Pressures were particularly acute in the south and east of the city; the catchment areas for Archbishop Holgate's Church of England Academy and Fulford School.

The following options were available, as detailed in paragraphs 13-22 :

**Option 1** – do nothing. This would not deliver the statutory duty.

**Option 2** – work to provide additional classrooms and social spaces at Archbishop Holgate's and Fulford secondary schools, at a cost of £10.4m. This was the recommended option, enabling both the statutory duty and parental preference to be met.



**Option 3** – build a new secondary school through the free school presumption route. This would cost a minimum of £25m and take at least 3 years to build.

**Option 4** – transport pupils from the east and south catchment areas to other schools with spare places. This would add to general fund pressures and fail to meet parental preference in these areas.

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

Resolved: (i) That the options and risks associated with the growth in demand for secondary school places in the south and east of the city be noted.

(ii) That Option 2, to work with Pathfinder and South York Multi-Academy Trusts and allocate Basic Need funding of £10.4m for the provision of additional school places at Archbishop Holgate's Church of England Academy (£4.4m) and Fulford School (£6m), as detailed in paragraphs 14, 19 and 20 of the report, be approved.

Reasons: (i) To enable the council to meet its statutory responsibility to provide sufficient school places and continue to meet duties to deliver high levels of parental preference.

(ii) Option 2 is currently the most cost effective option and minimises in a sustainable way the majority of the likely risks associated with the delivery of additional secondary school places.

## **19. Annual Report on Financial Inclusion and Welfare Benefits Activities 2018/19**

The Assistant Director, Customer & Digital Services presented a report which provided an update on the impact of welfare benefits changes in York, as well as benefits statistics and performance and other financial inclusion activity undertaken during 2018/19. It also proposed action to implement the recommendations from the Financial Inclusion Scrutiny Review approved by Executive on 18 March 2019 (Minute 134 of that meeting refers).

The latest statistics on Universal Credit (UC) were detailed in paragraphs 3-4 of the report. Following the takeover of the UC service by Citizens' Advice Bureaux in April 2019, the council had worked closely with Citizens Advice York (CAY) and other partners to ensure a smooth transition and had updated and circulated information on how customers could access support. The current position on the provision of support to residents through Council Tax Support (CTS), Discretionary Housing Payments (DHP) and the York Financial Assistance Scheme (YFAS) was set out in paragraphs 19-32 and in Annexes 1 (DHP) and 2 (YFAS).

The remainder of the report covered other activities funded by the council to support financial inclusion, via the Financial Inclusion Steering Group (FISG) and the area-based programme set up to support people in Westfield and parts of Clifton, Guildhall, Heworth and Hull Road wards. A draft action plan to implement the recommendations of the Scrutiny Review was attached at Annex 3.

The Executive Members for Housing & Safer Neighbourhoods and Economy & Strategic Planning commended the report, which encompassed both practical actions and a comprehensive review.

Resolved: (i) That the report be noted.

Reason: To ensure that councillors, residents and groups are aware of financial activity and the use of associated funding and are updated on welfare benefits changes and their impacts.

(ii) That the actions to deliver the agreed recommendations from the Financial Inclusion Scrutiny Review as set out in Annex 3, be approved,

Reason: To ensure that the agreed scrutiny actions are implemented.

**20. Public Rights of Way - Review of Definitive Map Processes and Impact of Imminent Implementation of the Deregulation Act 2015**

The Assistant Director of Transport, Highways & Environment presented a report which set out the results of a review of the council's Definitive Map processes undertaken following the decision of the Local Government Ombudsman (LGO) on a complaint, and sought approval to make changes required as a result of that review.

Following a complaint by a local resident in 2018, the LGO had found that the council was at fault regarding a delay in complying with the Secretary of State's direction to make a definitive map modification order on an application for a public right of way, as detailed in the LGO decision attached at Annex 1 to the report. Results of the review of the council's Definitive Map process, Statement of Priorities and staffing levels and budgets, undertaken in accordance with the agreed actions in that decision, were set out in Annexes 2, 3 and 4 respectively. It was noted that the Deregulation Act 2015 and the 2026 cut off for certain types of application would increase the demands on the Definitive Map service in the foreseeable future.

The options open to Members in response to the review were outlined in paragraphs 16-18 of the report; essentially, these were to support the findings and make the recommended changes in each key area, or to note the findings and make no changes. The latter was not recommended.

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

Resolved: (i) That the findings of the Review of the Statement of Priorities be supported and that the revised Statement at Annex 6 be adopted, including the requirement to ensure that any direction from the Secretary of State at Defra (SOS) will be dealt with within either 3 months or 12 months, according to the type of direction received.

(ii) That an amendment to the current scheme of delegation be authorised so that definitive map modification order applications to make changes to the definitive map and statement will be determined

by an Assistant Director or more senior officer with responsibility for the Rights of Way team, in consultation with the Executive Member for Transport and affected ward councillors.

(iii) That a report considering the progress of reducing the backlog of definitive map modification order applications be presented to the Executive Member for Transport every 6 months, with a copy to be sent to the Local Government Ombudsman.

(iv) That an apprentice / trainee role for rights of way be developed, to focus initially on definitive map modification order applications, with the cost of this - £25,000, to be incorporated as unavoidable growth in the 2020/21 budget process for consideration by Full Council when setting the budget for 2020/21.

(v) That further resources be kept under review to ensure that the council delivers on its new commitment to deal with SOS directions within either 3 months or 12 months according to the type of direction received.

- Reasons:
- a) With the aim of eliminating the definitive map modification order backlog in the shortest possible time with the resources available.
  - b) To reduce the risk of further appeals for non-determination and further complaints to the Local Government Ombudsman.
  - c) To comply with the findings of the Local Government Ombudsman and prevent a finding of maladministration against the council.
  - d) To ensure that the statutory escalation process to the Secretary of State results in resolution.

## **21. Council Supported Local Bus Services**

The Assistant Director of Transport, Highways & Environment presented a report which detailed the outcome of a competitive tender exercise undertaken to secure operators for the provision

of socially necessary local bus services in the York area and made recommendations on awarding the tenders.

The services partially funded by the council and operated under contract were summarised in Table 1 at paragraph 9 of the report and detailed in Annex A, along with their costs. Those services due to expire at the end of August 2019 had been re-tendered on a 'like for like' basis, in line with the decision of Executive on 17 January 2019 (Minute 93 of that meeting refers). Approval was sought to award all the tenders except for:

- evening service 10, as an offer had been received to operate this service commercially, at no cost to the council and
- service 15, on which further discussion with the operators was recommended due to the complex nature of the bids received.

The cost of re-provision would require a budget increase of £29,937 in the current year and £55,278 per year from 2020/1.

In response to Members' questions, officers confirmed that the performance measures referred to in paragraph 9 of the report could be reviewed at a future Decision Session of the Executive Member for Transport if necessary.

- Resolved:
- (i) That the content of the report be noted.
  - (ii) That the award of contracts to the winning bidder in respect of routes 11, 14, 19, 20, 21, 24/25/26 and 26 (evening) be approved.
  - (iii) That the award of a contract for route 10 (evening) be declined, on the understanding that this will be operated commercially at no cost to the council.
  - (iv) That the award of a contract for route 15 (currently part of route 12) be delayed until further negotiations have taken place with the operators.
  - (v) That authority to make the final decision on route 15 (currently part of route 12) be delegated to the Assistant Director of Transport, Highways and the Environment, in consultation with the Executive Member for Transport.

(vi) That the additional costs of the tender exercise, to be funded from additional resources identified in the budget amendment agreed by Council on 17 July 2019, be noted.

Reason: To ensure that all residents retain access to a similar level of bus services as are currently available to them, at the best possible value to the council.

## **PART B - MATTERS REFERRED TO COUNCIL**

### **22. Children in Care Residential Commissioning Plan**

*[See also under Part A]*

The Corporate Director, Children, Education & Communities presented a report which recommended actions to develop the city's residential provision for children in care, in order to better meet their future needs and to comply with the council's statutory duty to have sufficient placements for children in care.

Although the number of children in care in York had remained relatively stable, the current residential offer was not sufficient for the increased complexity of need caused partly by young people entering into care later in childhood. The options available to address this gap in meeting the needs of certain cohorts of children were detailed in paragraphs 20-37 of the report and are summarised below:

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**Option 3** – purchase three new buildings, adapt Wenlock Terrace to 6 bed Supported Accommodation, procure new external providers to deliver residential services and provide step-down foster care. This was the recommended option.

In response to questions from Members and matters raised under Public Participation, officers confirmed that:

- the proposed arrangements would offer more flexibility;

- a systematic, therapeutic approach to residential provision would improve placement stability and outcomes for individual children;
- the service had been outsourced for many years; indicative costs of bringing provision in-house (para. 22) were based on potential unit costs and staffing costs.

Recommended: That Council allocate a capital budget of £1.36m, funded from prudential borrowing, to purchase 3 new buildings for the delivery of residential provision in York, with the revenue costs of the borrowing to be met from existing revenue budgets within Children's Services.

Reason: In order to develop the city's residential provision for children in care and ensure that the council meets its statutory sufficiency duty.

Cllr K Aspden, Chair

[The meeting started at 5.33 pm and finished at 6.50 pm].