

**Notice of a public meeting of
Executive**

To: Councillors Aspden (Chair), Ayre, Craghill, Cuthbertson, D'Agorne, Runciman, Smalley, Waller and Widdowson

Date: Thursday, 18 July 2019

Time: 5.30 pm

Venue: The George Hudson Board Room - 1st Floor West Offices (F045)

A G E N D A

Notice to Members – Post Decision Calling In:

Members are reminded that, should they wish to call in any item* on this agenda, notice must be given to Democracy Support Group by **4:00 pm on Monday, 22 July 2019.**

*With the exception of matters that have been the subject of a previous call in, require Full Council approval or are urgent, which are not subject to the call-in provisions. Any called in items will be considered by the Customer and Corporate Services Scrutiny Management Committee.

1. Declarations of Interest

At this point, Members are asked to declare:

- any personal interests not included on the Register of Interests
- any prejudicial interests or
- any disclosable pecuniary interests

which they may have in respect of business on this agenda.

2. Exclusion of Press and Public

To consider the exclusion of the press and public from the meeting during consideration of the following:

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. 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).

3. Minutes (Pages 1 - 8)

To approve and sign the minutes of the last Executive meeting, held on 27 June 2019.

4. Public Participation

At this point in the meeting members of the public who have registered to speak can do so. The deadline for registering is **5.00pm on Wednesday, 17 July 2019**. Members of the public can speak on agenda items or matters within the remit of the Executive.

To register to speak please contact the Democracy Officer for the meeting, on the details at the foot of the agenda.

Filming, Recording or Webcasting Meetings

Please note that, subject to available resources, this meeting will be filmed and webcast, or recorded, including any registered public speakers who have given their permission. This broadcast can be viewed at <http://www.york.gov.uk/webcasts> or, if recorded, will be uploaded onto the Council's website following the meeting.

Residents are welcome to photograph, film or record Councillors and Officers at all meetings open to the press and public. This includes the use of social media reporting, i.e. tweeting. Anyone wishing to film, record or take photos at any public meeting should contact the Democracy Officer (whose contact details are at the foot of this agenda) in advance of the meeting.

The Council's protocol on Webcasting, Filming & Recording of Meetings ensures that these practices are carried out in a manner both respectful to the conduct of the meeting and all those present. It can be viewed at

5. Forward Plan (Pages 9 - 12)

To receive details of those items that are listed on the Forward Plan for the next two Executive meetings.

6. York Central Partnership Update (Pages 13 - 32)

The Corporate Director of Economy & Place to present a report which provides an update on the partnership promoting the York Central site and responds to the decision of the Secretary of State not to call in the planning decision made on the site, seeking approval to submit a Reserved Matters planning application for the first phase of enabling infrastructure.

Note: This item has been included on the Forward Plan under statutory urgency procedures, as it involves a key decision and has been on the Forward Plan for less than 28 days. The reason for the urgency is the need to respond to the decision by the Secretary of State not to call in the planning decision and to consider the financial options to continue project work, within timescales, in the absence of an Housing Infrastructure Fund (HIF) decision.

7. Developing the Next Council Plan (Pages 33 - 42)

The Director of Customer & Customer Services to present a report which outlines a proposed structure for the Council Plan that will guide council activities over the next 4 years and a proposed approach to consultation on developing the detailed content of the Plan prior to its adoption by Full Council in October.

Note: Annex B to this item is not included in the agenda pack but is available to view with the agenda on the council's website.

8. Children in Care Residential Commissioning Plan (Pages 43 - 68)

The Corporate Director of Children, Education & Communities to present a report which recommends actions to develop the city's residential provision for children in care, in order to better meet the current and future needs of children and young people in care.

9. The Provision of School Places and Allocation of School Capital Budgets 2019-2023 to Address Secondary Place Pressures (Pages 69 - 76)

The Corporate Director of Children, Education & Communities to present a report which provides an update on work to manage the schools capital programme during the period 2019-2023, sets out the current risks associated with the management of secondary place pressures in the south and east of the city, and recommends an approach to dealing with and mitigating these risks.

10. Annual Report on Financial Inclusion and Welfare Benefits Activities 2018/19 (Pages 77 - 102)

The Director of Customer & Corporate Services to present a report which provides an update on the impact of welfare benefits changes in York, benefits statistics and performance as administered by the council and other financial inclusion activity during 2018/19, and proposes action to implement the recommendations from the Financial Inclusion Scrutiny Review that were approved by Executive in March 2019.

11. Public Rights of Way - Review of Definitive Map Processes and Impact of Imminent Implementation of the Deregulation Act 2015 (Pages 103 - 144)

The Corporate Director of Economy & Place to present a report which sets out the results of a review of the council's Definitive Map processes undertaken following the decision of the Local Ombudsman in respect of a complaint, and seeks authority to make the changes required as a result of that review.

12. Council Supported Local Bus Services (Pages 145 - 170)

The Corporate Director of Economy & Place to present a report which details 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 seeks approval to award the tenders, except where commercial offers have been made or further negotiations are recommended.

13. Urgent Business

Any other business which the Chair considers urgent under the Local Government Act 1972.

Democracy Officer:

Name: Fiona Young

Contact details:

- Telephone – (01904) 552030
- E-mail – fiona.young@york.gov.uk

For more information about any of the following please contact the Democratic Services Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats

Contact details are set out above.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Ta informacja może być dostarczona w twoim (Polish)
własnym języku.

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی میا کی جاسکتی ہیں۔ (Urdu)

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City of York Council

Committee Minutes

Meeting	Executive
Date	27 June 2019
Present	Councillors Aspden (Chair), Ayre, Craghill, Cuthbertson, D'Agorne, Runciman, Smalley, Waller and Widdowson
In Attendance	Councillor Myers

PART A - MATTERS DEALT WITH UNDER DELEGATED POWERS

1. 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 Runciman declared a personal interest in Agenda Item 5 (Earswick Neighbourhood Plan), as a member of New Earswick Parish Council and the owner of a property in Earswick. Cllr Cuthbertson declared a personal interest in the same item, as the husband of a New Earswick parish councillor and the owner of a property in Earswick.

2. Minutes

Resolved: That the minutes of the Executive meeting held on 18 March 2019 be approved and then signed by the Chair as a correct record.

3. Public Participation

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

Wendy Loveday, Chair of the York Private Hire Association (YPHA), spoke on the council's taxi licensing policy as an item within the Executive's remit. She expressed the view that Uber taxi drivers were operating unlawfully in York and that the council was not doing enough to address this and to bring about prosecutions under Section 46 of the 1976 Act.

Barry Hamer, Vice Chair of YPHA, spoke on the same subject, questioning why the matter was not on the Executive agenda or Forward Plan given the recommendation made by the Gambling, Licensing & Regulatory Committee on 18 March 2019.

John Cossham, of the Extinction Rebellion group, spoke on matters within the Executive's remit. He thanked Members for voting for a 'zero carbon' policy at Council in March and outlined the content and purpose of the 'Mandate for Change' document handed to Executive Members before the meeting.

Hon. Ald Brian Watson spoke on Agenda Item 7 (Capital Programme Outturn 2018/19 and Revisions to the 2019/20-2023/24 Programme), in relation to the Community Stadium. He voiced concerns over the continuing delay in completing the project and whether promises made to the York City Knights team (YCK) would be kept.

In response to the comments of the YPHA, the Chair confirmed that a report on taxi licensing matters had been requested for consideration in August or September 2019.

4. 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.

5. Earswick Neighbourhood Plan

The Development Officer, Strategic Planning, presented a report which set out the results of the referendum on the Earswick Neighbourhood Plan (the Plan) and recommended that the Plan be 'made' and brought into full legal force as part of the Development Plan for York.

On 7 March 2019, Executive had accepted the Examiner's Report and agreed that the Plan proceed to a referendum, which had been duly held on 2 May. The Declaration of Result was attached as Annex A to the report. Of the 347 valid votes cast (a 50.4% turnout), 327 (94.2%) were in favour of accepting the Plan and 20 (5.8%) were against. It was confirmed that there were no legal or other reasons why the Plan should not be formally

'made' in accordance with these results, under the Neighbourhood Planning Regulations.

The Plan had been considered by the Local Plan Working Group (LPWG) on 20 June 2019. As requested by the LPWG, officers clarified the reason for the difference between the numbers of ballot papers issued and received, explaining that two voters had left the polling station without putting their votes in the ballot box.

Resolved: (i) That the results of the referendum be noted and that the Earswick Neighbourhood Plan be formally 'made'.

Reason: To allow the Neighbourhood Plan to progress in line with the Neighbourhood Planning Regulations.

(ii) That the Decision Statement attached as Annex B be approved for publication in accordance with Regulation 19 of the Neighbourhood Planning (General) Regulations 2012 (as amended).

Reason: To allow the Neighbourhood Plan to progress in line with neighbourhood planning legislation.

6. Finance and Performance Outturn 2018/19

The Director of Customer & Corporate Services presented a report which provided an analysis of the council's overall finance and performance position at the end of the 2018/19 financial year, including progress on delivering savings.

A provisional net underspend of £153k was reported on the net General Fund budget of £121.9m for 2018/19. This maintained the council's overall financial health and provided a strong platform from which to meet the challenges ahead. Good progress had also been made on achieving savings during the year, with delays in some areas generally being mitigated by savings in others. Table 1, in paragraph 5 of the report, gave an overview of the out-turn; key variations within directorates, the Housing Revenue Account (HRA) and corporate budgets were detailed in paragraphs 8 to 47. Since the unallocated contingency of £648k was no longer needed to support general budget pressures as reported in Monitor 3, it was proposed that this be added to the 2019/20 contingency.

The performance update, in paragraphs 52 to 134 of the report, was based on the core indicators built around the priorities in the 2015-19 Council Plan. Of the strategic indicators reporting new annual data, 6 had shown improvements while 2 showed a poor direction of travel. The next quarterly update would be based on a new Council Plan for 2019-23.

Resolved: (i) That the year end underspend of £153k and the unused contingency of £648k be noted.

(ii) That approval be given to transfer the overall underspend of £801k to the 2019/20 contingency, pending consideration by the new Executive of budget amendment proposals to Council in July 2019.

(iii) That the proposals for the Housing Revenue Account balance outlined in paragraphs 42 and 43 of the report be approved.

(iv) That the financial risks outlined in the report, and the need to continue to maintain a prudent contingency and reserves that are reflective of these risks, be noted.

(v) That the continued effective financial management across the Council, and the ongoing delivery of savings, be noted.

(vi) That the performance information set out in paragraph 52 of the report onwards be noted.

Reason: To ensure that significant financial issues can be appropriately dealt with.

7. Capital Programme Outturn 2018/19 and Revisions to the 2019/20 - 2023/24 Programme

[See also under Part B]

The Director of Customer & Corporate Services presented a report which set out the capital out-turn position for the 2018/19 financial year and asked Executive to approve requests for re-

profiling and to recommend the re-stated 2019/20-2023/24 programme to Council.

An out-turn of £77.402m was reported on the approved 2018/19 budget of £106.291m; a net variation of £28.889m. This comprised requests to re-profile £29.546m of schemes to future years and adjustments to schemes increasing expenditure by £0.627m. However, the overall programme continued to operate within budget. Variances and re-profiling requests within each portfolio area were outlined in Table 1 at paragraph 10 of the report, with details of variances above £100k in paragraphs 12 to 85. The capital programme for 2019/20 to 2023/24, re-stated as a result of the re-profiling, was shown in Table 3 at paragraph 89 and detailed in Annex 1.

Officers provided an update to the position on the Community Stadium set out in paragraphs 77-85 of the report, stating that construction would not now be completed in September. The council was working to determine the reasons for the delay and a full report would be provided once this work had concluded. With reference to comments made under public participation, it was proposed to extend the financial support provided to YCK.

- Resolved:
- (i) That the 2018/19 capital outturn position of £77.402m be noted and the requests for re-profiling from the 2018/19 programme to future years, totalling £29.516m, be approved.
 - (ii) That the adjustments to schemes increasing expenditure in 2018/19 by a net £0.627m be noted.
 - (iii) That the adjustments to schemes increasing expenditure in future years by a total of £2.285m be noted.
 - (iv) That approval be given to increase the Lowfields Housing Site budget by £4.1m, funded from market sales receipts, as set out in paragraph 35 of the report.
 - (v) That approval be given to appropriate HRA land to the General Fund for the development of Ashfield football pitches at a market value of £25,285, as set out in paragraph 38.

(vi) That approval be given to draw down £213k from the 2019/20 capital contingency budget of £765km towards the additional cost of the two replacement cremators, as detailed in paragraph 68.

(vii) That the proposed additional YCK financial support towards continued first team playing arrangements at Bootham Crescent during the 2019 Rugby League season, amounting to a net cost of £15,000 funded from the existing Project budget, be approved.

Reason: To enable the effective management and monitoring of the council's capital programme.

8. Treasury Management Annual Report and Review of Prudential Indicators 2018/19

The Director of Customer & Corporate Services presented a report which provided a review of treasury management activities, and the actual prudential and treasury indicators, for the 2018/19 financial year.

The report had been reviewed and scrutinised by the Audit & Governance Committee at their meeting on 19 June 2019, in accordance with the CIPFA Code of Practice on Treasury Management. Details of the out-turn against prudential indicators were attached at Annex A.

Resolved: That the 2018/19 performance of treasury management activity and prudential indicators outlined in Annex A to the report be noted.

Reason: To ensure that the continued performance of the treasury management function can be monitored and to comply with statutory requirements.

PART B - MATTERS REFERRED TO COUNCIL

9. Capital Programme Outturn 2018/19 and Revisions to the 2019/20-2023/24 Programme

[See also under Part A]

The Director of Customer & Corporate Services presented a report which set out the capital out-turn position for the 2018/19 financial year and asked Executive to approve requests for re-profiling and to recommend the re-stated 2019/20-2023/24 programme to Council.

An out-turn of £77.402m was reported on the approved 2018/19 budget of £106.291m; a net variation of £28.889m. This comprised requests to re-profile £29.546m of schemes to future years and adjustments to schemes increasing expenditure by £0.627m. However, the overall programme continued to operate within budget. Variances and re-profiling requests within each portfolio area were outlined in Table 1 at paragraph 10 of the report, with details of variances above £100k in paragraphs 12 to 85. The capital programme for 2019/20 to 2023/24, re-stated as a result of the re-profiling, was shown in Table 3 at paragraph 89 and detailed in Annex 1.

Officers provided an update to the position on the Community Stadium set out in paragraphs 77-85 of the report, stating that construction would not now be completed in September. The council was working to determine the reasons for the delay and a full report would be provided once this work had concluded. With reference to comments made under public participation, it was proposed to extend the financial support provided to YCK.

Recommended: That Council approve the re-stated 2019/20 to 2023/24 programme of £617.810m, as summarised in Table 3 at paragraph 89 of the report and detailed in Annex A.

Reason: To enable the effective management and monitoring of the council's capital programme.

Cllr K Aspden, Chair

[The meeting started at 5.30 pm and finished at 6.15 pm].

Forward Plan: Executive Meeting: 18 July 2019

Table 1: Items scheduled on the Forward Plan for the Executive Meeting on 29 August 2019

Title and Description	Author	Portfolio Holder
<p>Q1 19-20 Finance and Performance Monitor Purpose of Report To provide an overview of the council’s finance and performance position at the end of Quarter 1.</p> <p>Executive will be asked to: note and approve the report.</p>	<p>Ian Cunningham & Debbie Mitchell</p>	<p>Executive Member for Finance & Performance</p>
<p>Academy Conversion of the Danesgate Community Purpose of Report To deal with issues relating to the conversion of the Danesgate Community to academy status.</p> <p>Executive will be asked to: agree land and access issues as part of the land lease to the academy trust, and also agree the number of pupil places to be commissioned by the authority, as Danesgate is an alternative provision academy and therefore does not have a planned admission number (PAN).</p>	<p>Maxine Squire</p>	<p>Executive Member for Children, Young People & Education</p>
<p>Ward Committees: Refreshing the Approach Purpose of Report: To provide an update on budget resources allocated to the council’s wards and propose options for using the various funding streams allocated, together with approaches to deepening the council’s engagement with local residents.</p> <p>Executive will be asked to: agree the proposals to develop the council’s approach to ward working.</p>	<p>Charlie Croft</p>	<p>Executive Member for Children, Young People and Education</p>

Title and Description	Author	Portfolio Holder
<p>City Centre Access Purpose of Report: Following completion of the trial approved by Executive in September 2018, to provide an update on work done with the community regarding mitigation of the impact of proposed traffic restrictions to reduce the likelihood of a hostile vehicle attack on the city centre, and to outline measures taken at the racecourse for the same purpose and further measures that are recommended.</p> <p>Executive will be asked to:</p> <ul style="list-style-type: none"> - Agree to make permanent the current experimental Traffic Regulation Order (TRO) for the city centre; - Approve a procurement strategy for the physical measures in the city centre and at the racecourse; - Note and comment on the engagement with the community and the mitigation measures developed. 	James Gilchrist	Executive Member for Transport
<p>Responding to the Council's Climate Change Motion Purpose of Report: To provide an update on activities related to carbon reduction and climate change, and to propose a set of actions to consider in developing the council's response to the declaration of a climate emergency.</p> <p>Executive will be asked to: note the report and consider the proposed activities.</p>	Will Boardman & Neil Ferris	Executive Member for Environment & Climate Change

Table 2: Items scheduled on the Forward Plan for the Executive Meeting on 26 September 2019

Title and Description	Author	Portfolio Holder
<p>Review of the Constitution and Governance Procedures Purpose of Report: To propose a framework for the review of the Constitution and governance procedures, identify the issues to be addressed and set out the process to be undertaken and a draft timescale for completion.</p> <p>Executive will be asked to: approve the proposals.</p>	<p>Suzan Harrington</p>	<p>Executive Leader (incorporating Policy, Strategy & Partnerships)</p>
<p>Taxi Licensing Policy, including the legality of ‘out of town’ taxis Purpose of Report To provide details of the existing licensing policy and offer Members the opportunity to make changes. The report will also include an interpretation of the law in relation to the legality of ‘out of town’ operators, drivers and vehicles.</p> <p>Executive will be asked to: determine whether to make changes to the taxi licensing policy.</p>	<p>Matthew Boxall</p>	<p>Executive Member for Housing & Safer Neighbourhoods</p>

Table 3: Items Slipped on the Forward Plan

Title & Description	Author	Portfolio Holder	Original Date	Revised Date	Reason for Slippage



Executive**18 July 2019**

Report of the Director of Economy & Place
Portfolio of the Leader

York Central Partnership Update**Summary**

1. York Central is a 46 hectare (ha) area of land adjacent to the railway station and is one of the largest brownfield sites in northern England, see plan at Annex 1. It provides a huge opportunity for regeneration; providing up to 2500 new homes, creating 6500 jobs in grade A commercial office space, enhancing the National Railway Museum and creating a range of new public spaces and community facilities directly linked to an improved Railway Station.
2. The scheme is being promoted by the York Central Partnership (YCP) which is made up of Network Rail (NR) Homes England (formerly the Homes and Communities Agency or HCA), the National Railway Museum (NRM) and the City of York Council (CYC).
3. The council has been instrumental in breaking the deadlock of decades and bringing forward York Central for development. The council has worked positively with partners to ensure that the development will deliver benefits to the people of York and these will continue to be shaped by extensive public engagement. As the principal conduit for infrastructure funding and separately through its statutory roles as Local Planning Authority (LPA) and Highways Authority (HA) the council has significant influence and control over key future decisions and will continue to represent the views of the people of York in all partnership discussions.
4. The report provides an update and responds to the decision by the Secretary of State not to call in the planning decision and seeks agreement to submit a Reserved Matters planning application for the first phase of enabling infrastructure. The report also considers options to release further budget to take the project forward in the absence of a Housing Infrastructure Fund (HIF) decision.

Recommendations

5. Executive is asked :-
- i. To agree Option 2 in this report and approve the allocation of £750k to fund Early Contractor 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). This will be funded partly from the allocated York Central CYC capital budget (£415k) and Homes England funding (£335k).
 - ii. To cancel the £1.25m budget provision previously agreed specifically for early site works, with this funding now returned back to the remaining unallocated CYC funding for York Central
 - iii. To approve the seeking of financial contributions towards the budget for up front design work from York, North Yorkshire & East Riding (YNYER) Local Economic Partnership (LEP), Leeds City Region (LCR) LEP and YCP ahead of the agreement of HIF funding.
 - iv. To delegate the decision to undertake further design works, outlined in option 3 over and above the recommended option 2, to the Deputy Chief Executive in consultation with the leader, subject to the agreement of additional funds from YNYER LEP, LCR LEP, YCP or the award of HIF funding.
 - v. To delegate the final sign off of the RMA for the delivery of the Phase 1 infrastructure to the Director of Economy and Place in consultation with the 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. To request that a further report will be brought back to Executive setting out options and proposals to include York Central in the bus Clean Air Zone.

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

Background

6. The delivery of York Central is essential to the growth of York, contributing significantly to the growth of the regional economy, through the provision of high quality office space, and to meeting housing need in the city. Though the site has been earmarked for regeneration for many years, previous attempts to deliver the scheme have not come to fruition and we are now poised to seize

this once in a lifetime opportunity to make this development a reality and to ensure that the development also meets the broader social, economic and environmental needs of the city.

7. York Central Partnership (YCP) is a partnership of landowning bodies on the York Central site and is comprised of Network Rail, Homes England, the Railway Museum and CYC. Over the last 4 years YCP have developed a comprehensive masterplan for the 45ha site and have now secured planning permission for the outline planning application (OPA) for the main site to the west of the railway station, which will deliver up to 112,000 sq. m of commercial space and up to 2500 homes as well as a large park, public squares and an expanded Railway Museum (over a net developable area of c25ha). Delivery of the site is central to the Strategic Economic Plans (SEPs) for both Local Enterprise Partnerships (LEPs) and has enjoyed wide spread national and regional support with its designation as both a Housing Zone and an Enterprise Zone (EZ).
8. Extensive local consultation and engagement has been undertaken ahead of the planning process which has shown significant support for the scheme despite its many challenges. Previous attempts by the market to bring a scheme forward on this site have floundered and, given the unique risk profile of the site, it will require public sector leadership to bring the site forward for development.
9. In December 2018 full council agreed to create the £155m enabling infrastructure delivery budget and in January 2019 Executive agreed the Heads of terms of the YCP Partnering Agreement. In February 2019 West Yorkshire Combined Authority (WYCA) Investment Committee approved the Business case for West Yorkshire Transport Fund (WYTF+) funding (subject to conditions) and work toward Full Business Case plus (FBC+) continues.
10. Planning Committee resolved to grant permission for the Outline Planning Application for the site in March 2019 and this was subsequently referred through to the Secretary of State (SoS), to consider whether this decision would be called in for determination by the Planning Inspectorate.
11. On the 19th June 2019 the LPA were informed that the SoS had not called in the decision which means that, on completion of a satisfactory S106 agreement the outline planning decision notice can be issued. The detailed terms of the S106 agreement are presently being negotiated between Network Rail, Homes England and the Local Planning Authority. The 6 week Judicial Review challenge period will commence from the date of the outline planning permission decision notice. Once the outline planning permission is formally issued, a detailed Reserved Matters Application for infrastructure and development on the site can be submitted by CYC. Work has continued on :-

- Detailed design of the first phase of infrastructure (Water End junction new Severus Pedestrian / Cycle Bridge, new ECML bridge and spine road) and commenced preparation of a Reserved Matters Planning Application
- Procurement of a construction partner for first phase of infrastructure
- Finalisation by the LPA and Homes England /NR of the Planning S106 agreement
- Finalisation of the York Central Partnering Agreement
- Discussions with Health partners about community health provision on site
- Commercial Occupier brief to inform YCP delivery strategy
- Appointment by Homes England of the YCP Programme Director and finalisation of governance arrangements

12. Over the last two months we have seen a delay to some strands of work as we awaited the call in decision from the SoS, and determination of the HIF funding application. The council still awaits a decision from Ministry of Housing Communities and Local Government (MHCLG) on the £77.1m application for Housing Infrastructure Funding.

13. Because of extended period of consideration of the OPA, work required to address queries, and the delayed decisions outlined above, the budget set aside to fund the project team and commission detailed design work to progress a reserved matters planning application for the infrastructure has been exhausted. Options for maintaining project momentum in the absence of a HIF decision are set out later in this report.

Delivering the first Phase of Infrastructure

14. In December 2018, Full Council established a budget totalling £155m to fund core site infrastructure on York Central and allow viable development to proceed. This will be funded by a combination of external grants, contributions, previously agreed approvals and also significant new borrowing. WYTF Full Business Case (FBC) was conditionally agreed in February 2019 (£23.5m) and this will proceed to final sign off when the procurement results in a fixed cost later this year. Importantly this is conditional upon agreement of HIF. Funding decisions were expected from MHCLG for the Housing Infrastructure Fund by March 2019 (£77.1m) but we do not currently have a confirmed timetable for that decision.

15. The total cost of the infrastructure to bring the site forward is £155m, but this spend is phased over approximately 5 years and will use grant funding first before any EZ backed borrowing is undertaken. The full investment case was

set out in the November 2018 Executive report. The indicative breakdown of the key elements of the infrastructure scheme are as follows:

Table 1 Total Infrastructure Costs

Infrastructure Elements	£'000
Enabling Works including site clearance, early demolitions, utility diversions, Millennium Green preparation	11,200
Phase 1 Infrastructure including bridge access onto site, new spine road, drainage	75,800
New Park	19,000
Museum Square and Boulevard	14,400
Southern Access to Site	4,800
Compliant Station Access	3,200
Full Western Station Entrance	17,400
Leeman Road Tunnel, Marble Arch Link	1,700
Leeman Road East	700
Utilities into site	6,800
Total Infrastructure	155,000

16. A construction partner has been procured by CYC to deliver the first phase infrastructure and the first part of this contract will involve a Pre-construction Services Contract (PSC) which will enable Early Contractor Involvement (ECI) to get input from the construction partner into designs to ensure buildability, innovation and value engineering. This will give us fixed costs which will enable us to submit the final business case (FBC+) to WYCA and release funds for delivery. It was intended that this phase of work would be funded from HIF grant so in the absence of a HIF decision Executive are asked to consider options of how to proceed as all spend will be at risk.
17. In January 2019 Executive agreed to release £1.25m for early enabling works to prepare the site for construction. This money has not been spent yet pending the planning decision. It is proposed that this budget is unallocated until we have certainty on external funding. A further update report will be brought to Executive in the autumn to consider plans beyond November 2019.

Below are 3 options to proceed beyond July:

- 1. Mothball project until HIF funding announced - £300k to November.** This covers internal staff costs and external programme support to keep the programme up to date and ready to put into action once funding agreed. The Partnering Agreement will be finalised but no further work will take place on detailed design or RMA submission. This will limit the council's financial exposure but will delay the project

for as long as we remain at a standstill and it will then take further time to reinstate the programme and secure design and contractor resources.

2. **Undertake ECI through a PSC contract and finalise the RMA - £750k to** the end of November. This would involve detailed engagement with the construction partner (ECI) to deliver greater design and cost certainty and finalise the RMA ready for submission by the end of November. It would not include final design work to complete Royal Institute of British Architects (RIBA) stage 4 or deliver the construction cost tender needed to submit WYCA FBC +. The final stages of RIBA 4 design work would then need to be undertaken in parallel with the planning determination and would require a further budget allocation.
3. **Continue Full Design work at risk - £2.3m to December.** This would involve the ECI and development of the RMA as per option 2 but with the finalisation of the stage 4 design, a fully priced tender return necessary for the submission of FBC+ to secure the WYCA funding necessary to progress into the construction phase. Further detailed construction drawings would be produced in order to proceed into construction as soon as possible. This would require a further draw down of funding from Economic Infrastructure Fund (EIF) of £2.33m which would increase the potential abortive costs of the project

18. The costs of these options are set out in the table below -

Options Costs to proceed	1 Do Min	2 Up to RMA	3 With RIBA4/5 design
Project Team	250	250	300
Programme Support	50	170	200
Early Contractor Involvement		330	330
RIBA 4/5 design completion			1,500
Total	300	750	2,330

19. Failure to continue detailed design and RMA work (Option 1) will lead to delays in the whole development, difficulty in achieving grant spend within the funding windows and a reduction in the amount of retained business rates likely to be generated as part of the Enterprise Zone which will fund the proposed £35m of prudential borrowing by CYC to deliver the enabling infrastructure. A delay will also necessitate a renegotiation of the Millennium Green conditional contract

agreement with attendant programme implications and risk of cost escalation. Any significant delay would also risk cost escalation on the construction contract as the tendered costs will only be held for 12 months. This is judged to be an unacceptable level of additional risk.

20. Option 3 requires further significant additional spending at risk to achieve a fully detailed and costed design. This will deliver sufficient design detail to progress into a construction contract so will deliver programme benefit, but it does increase cost exposure significantly by c£1.6m. It is therefore recommended that Executive agree Option 2 to enable progress into ECI, giving greater design and cost certainty ahead of a planning submission, without increasing the exposure of the council to further abortive costs should HIF funding not be agreed.

It should be noted that Option 2 will still require further release of funding to complete RIBA 4 design and secure a final contract price. With this and an agreed RMA we would then submit the FBC+ to WYCA to release the WYTF+ funding and commence construction. A further report will be brought back to Executive when the HIF decision has been made to award the phase 1 infrastructure contract.

21. CYC will seek support from YCP partners and both LCR and YNYER LEPs to share risk exposure and maintain the momentum of the project. Homes England have confirmed that they will make a further £335k available to contribute to the costs of the scheme going forwards. Under option 2 this means the additional costs of continuing the project to November 2019 reduces to £415k. In addition, by removing the need to spend £1.25m on early site clearance works this will reduce the potential level of abortive costs from £4.574m (identified in January 2019 report) to £3.739m.
22. The process of securing additional funding from both LEPS requires a formal process of business case sign off. Applications will be made to seek the necessary funds to contribute to the cost of undertaking further design work to accelerate progress, and to undertake the full scope of works outlined in option 3. If this supplementary funding, or HIF funding, is agreed then it is proposed that the additional RIBA 4/5 design work is commissioned. It is requested that the decision to proceed with this further design work is delegated to the Deputy Chief Executive in consultation with the leader and this will be reported back to Executive in the October report.
23. The York Central Partnership has agreed Heads of Terms to work jointly to deliver the scheme and all partners have already made significant investments at risk. Network Rail has already spent £4.4m on land assembly and rail clearance. Homes England has committed £18.9m towards land assembly and has contributed a further £200k towards the planning costs of the site. In addition Homes England is investing heavily in the establishment of a

dedicated delivery team. Though some of this investment is backed by asset acquisitions these will not be realised unless the scheme is developed out so are “at risk” at this stage.

24. The NRM have spent £1.14m on the master planning of their museum development scheme and they continue to fundraise. As an important cultural anchor they will continue to help shape the overall scheme and integrate their plans with the development of York Central, but their role differs from the major land owners NR and Homes England and from the Council as the custodian for a new part of the city and an enabler of the future scheme. As a Charitable organisation, NRM cannot undertake any development activity on non-Museum land, so NRM will not share in either the York Central development costs or receipts. The NRM have disposed of their surplus land assets to Homes England in order to integrate the land into the overall scheme and facilitate the early phases of the NRM £50m development plans.

Decision to submit RMA

25. In January 2019 Executive agreed
“To acknowledge that a further report will be brought back to Executive to agree the submission of the reserved matters planning application and commit the capital budget for the delivery of the Phase 1 infrastructure, including bridge access onto the site, new 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 ECML, subject to the award of Outline planning permission for the scheme and the final agreement of the external grant funding from both the WYTF and the HIF.
26. It is not yet possible to agree the submission of the RMA or the capital budget pending decisions on the Outline planning permission and HIF funding. When these matters are determined, to enable more timely decision making, the Executive is asked to expressly delegate authority to the Director of Economy and Place in consultation with the Leader of the Council to submit a Reserved Matters Application on behalf of CYC to the Local Planning Authority for determination. The application will then be considered by CYC in its capacity as Local Planning Authority. The separation of these distinct roles of CYC will be carefully managed to avoid conflict in accordance with the Council’s Constitution.
27. A further report will be brought back to Executive in October to update the funding position and request a drawdown of capital funding subject to HIF and WYCA funding confirmation.

Securing the, Social Environmental and Economic Benefits of York Central

28. The council plays a unique place making role in the partnership as long term custodians of the city with an ongoing remit to ensure that the scheme delivers the social and environmental benefits set out in the masterplan and that community engagement sits at the heart of the scheme as it is planned and delivered.
29. In June 2018 Executive agreed a series of city objectives to be developed as part of the delivery of the scheme relating to
- Housing
 - Economy
 - Sustainability
 - Public realm
 - Community
 - Culture
30. York Central presents a once in a life time opportunity to create a modern sustainable urban extension to the city. Unlike any other development, the central location, historic context, proximity to the station and connections across the country will mean it is ideally placed to help deliver the ambitions of the city for economic and residential growth. York Central meets most of the Local Plan's B1(a) office need and a significant proportion of its housing need, including providing the high density, accessible urban living component to complement other suburban and rural locations. It will also improve the wellbeing of residents, connecting communities to the city and beyond. York Central will contribute to the revitalisation and invigoration of our economy and provide much needed residential provision but it also needs to be a great place, an integrated high quality urban extension to the city that has a palpable sense of community and contributes positively to our social economic and environment aspirations of the city.
31. As democratically elected representatives of York's diverse communities, the council has a very specific leadership role in helping city partners, stakeholders and communities to actively, sensitively and intelligently develop solutions to the economic social and environmental challenges faced by the city.
32. The scheme's intrinsic social environmental and economic benefits will be secured through conditions on the outline planning permission and a comprehensive S106 agreement. The details will be determined through future RMAs which will be decided by Planning Committee. These provisions include:-
- I. As a central location with unparalleled connectivity, the site will optimise sustainable connectivity and travel and the S106 agreement commits YCP to :-

- i. Provide a segregated bus lane upon trigger points being hit. i.e. as traffic impacts starts to materialise. It might be possible to build this out as the first phase infrastructure is constructed, by negotiation with YCP
- ii. The scheme prioritises cycle and pedestrian access by providing:
 - a segregated 3.5m two way cycleway and separate 2m (min) pedestrian footway along the entire length of the new access road from Water End
 - a new 4m wide shared cycle and pedestrian bridge will be installed over the railway parallel to the existing Severus Bridge on Water End
 - Segregated cycle and pedestrian routes will be provided through Marble Arch linking along Leeman Road and Station Rise to Station Road and the city centre.
 - As part of this design the vehicular traffic in the Leeman Rd tunnel will be signal controlled with one lane of traffic which will control the flow and disincentivise through traffic.
- iii. Additional connectivity will be provided by a replacement of the Wilton Rise footbridge with a new level access, shared pedestrian and cycle route. This will complement the recent Scarborough Bridge improvements to provide improved city wide linkages.
- iv. The Design Guide provides for Electric Vehicle (EV) charging points for on street and commercial parking to future proof the scheme and promote sustainable transport solutions. This will be delivered through the planning system when the LPA considers all future Reserved Matters applications
- v. Provide lower than policy level of residential and commercial car parking spaces. Commercial spaces will be provided at a maximum of 1:175sqm (against policy of 1:45 sq. m), and residential spaces at a maximum of 0.45:unit for an apartments, and 1:unit for houses (against a policy of 1:unit for 1&2 bed homes and 2:unit for 3+ bed homes). The ambition for low car ownership will be supported by the provision of City Car Club facilities on the site and wider sustainable transport measures.

- vi. The existing level of station car parking on the site will not be increased despite a significant projected increase in rail journeys as a result of both HS2 and Northern Power Rail.
 - vii. Provide secure cycle parking in cycle hubs to serve station commuters. To the rear of the station this will be delivered as part of the enabling infrastructure, with conditions setting out a 300 space facility including associated facilities.
- II. Large number of trees are to be planted as part of ph1 Infrastructure to create sense of place and strategic green corridor. The scheme creates the largest park in the city for a hundred years which will provide a great outdoor community facility and will include variety of ecological treatments and further tree planting, creating a green lung in the centre of the site with outdoor play, sports and wellbeing facilities.
 - III. A Sustainable Urban Drainage solution is built into the park to promote and improve climate change resilience
 - IV. The Design Guide mandates BREEAM excellence for all commercial elements of the scheme. Again this will ensure the highest sustainable build standards are applied as part of future planning determinations
 - V. The OPA commits the development partners to deliver policy compliant 20% of all housing across the site as affordable housing with 80% of that being social rented housing and 20% being intermediate housing
 - VI. Provision of a percentage of the development to be made available as for Community/Self build housing
 - VII. Delivery of community and health facilities on site
33. The S106 agreement has detailed provisions to improve sustainable transport and to manage the impacts on the strategic road network as the scheme is developed. These include £4.992m for transportation and highways infrastructure improvements including
- Pedestrian and cycle infrastructure
 - Off -site bus priority infrastructure
 - Provision of additional frequency bus services
 - Improvements to road junctions off site

- Employment of a site wide travel plan co-ordinator
- Provision of a city car club and sustainable travel packs for residents
- On street parking enforcement and residents parking zones

34. There is a further contribution by the applicant of £2,328,000 to fund enhancements to the sustainable transport initiatives and improvements to Park & Ride in the event that the travel plan is not achieving targets to effect a minimum 30% reduction in forecast car trips generated by the development. In addition, in the event that the travel plan targets are not met, the level of car parking provided on the site for commercial development shall be capped.

35. The S106 also provides commuted sums totalling over £7.37m for off-site provision of facilities including education, sports, open space, allotments and improvements to the riverside path which will benefit residents of the surrounding areas.

Further Dialogue with YCP

36. There is a huge opportunity now, with the hiatus around funding, to continue the dialogue with YCP to explore opportunities to amplify the social economic and environmental benefits of York Central for the whole city. Below are some emerging concepts that the new administration has identified and asked officers to explore with YCP and bring back to Executive in subsequent reports. The extent to which they impact upon scheme viability or may be supported by further external funding has yet to be evaluated:-

- I. Explore the early delivery of a Bus Lane as an integral part of ph1 Infrastructure ahead of timescale required by S106/ conditions. This could be built out at the same time as the spine road is constructed which will improve bus journey times from day 1.
- II. Explore potential with YCP for greater than policy standard level of affordable housing on site through exploration of Affordable housing grants
- III. Explore with YCP ways of ensuring homes will be lived in rather than used as investments.
- IV. Explore potential with YCP to up the ambition for sustainable build for the residential elements to contribute to the zero carbon city wide commitment
- V. Explore potential with YCP for onsite sustainable energy generation for all developments, e.g. EV charging points supplied by solar power/battery solutions to smooth out peak demand/sell to market in spikes elsewhere, with widespread use of ground source or air source heat pumps.

- VI. Consider options for contractor innovation to reduce environmental impact e.g. through the potential establishment of a rail head to bring construction traffic by rail rather than road for the duration of the development
- VII. Explore potential with YCP for community self-build in early phases
- VIII. Extend the Bus Clean Air Zone to include York Central
- IX. Explore the increased provision of EV charging points in Car Parks and on street parking
- X. As part of the review of the Local Transport Plan, explore opportunities to increase Park and Ride facilities
- XI. Explore how YCP development partners might explore ways of reducing car journeys by further limiting parking places

37. There are 1566 existing car parking spaces on the site serving the Railway Station, Network Rail and NRM. A net reduction in operational spaces for Network Rail and NRM was established before provision for new development was considered.

38. Consideration of the appropriate levels was undertaken following a benchmarking exercise. Benchmarking is useful and informative, although it is rarely possible to identify a perfect equivalent for the development scheme in question. Approaches to parking are dependent on many factors including; the degree of connectivity, workforce distribution, housing tenure model and precedents set by previous use, nearby developments, site conditions etc. The benchmarking undertaken as part of the York Central Transport Assessment is summarised in the table below:

B1(a) Office Development	
Scheme	Parking Ratio (spaces:sqm)
Hiscox, York*	0:6545
Hudson House, York**	1:327
Spinningfields, Manchester	1:310
Wellington Place, Leeds	1:362-1:132
York Central	Maximum of 1:175
Tower Works, Leeds	1:175
St Paul's Place Sheffield	1:129
D Campus Phase 2, Sheffield	1:110
NOMA, Manchester	1:96
Liverpool Waters, Liverpool	1:72

*Scheme developed for specific end occupier

** Small scale ancillary office use within residential scheme, and redevelopment of former rail offices with low existing parking levels

Residential Development	
Scheme	Parking Ratio (spaces:unit)
Angel Meadow, Manchester	0.10 spaces: DU
Islington Wharf Phase 2, Manchester	0.36 spaces: DU

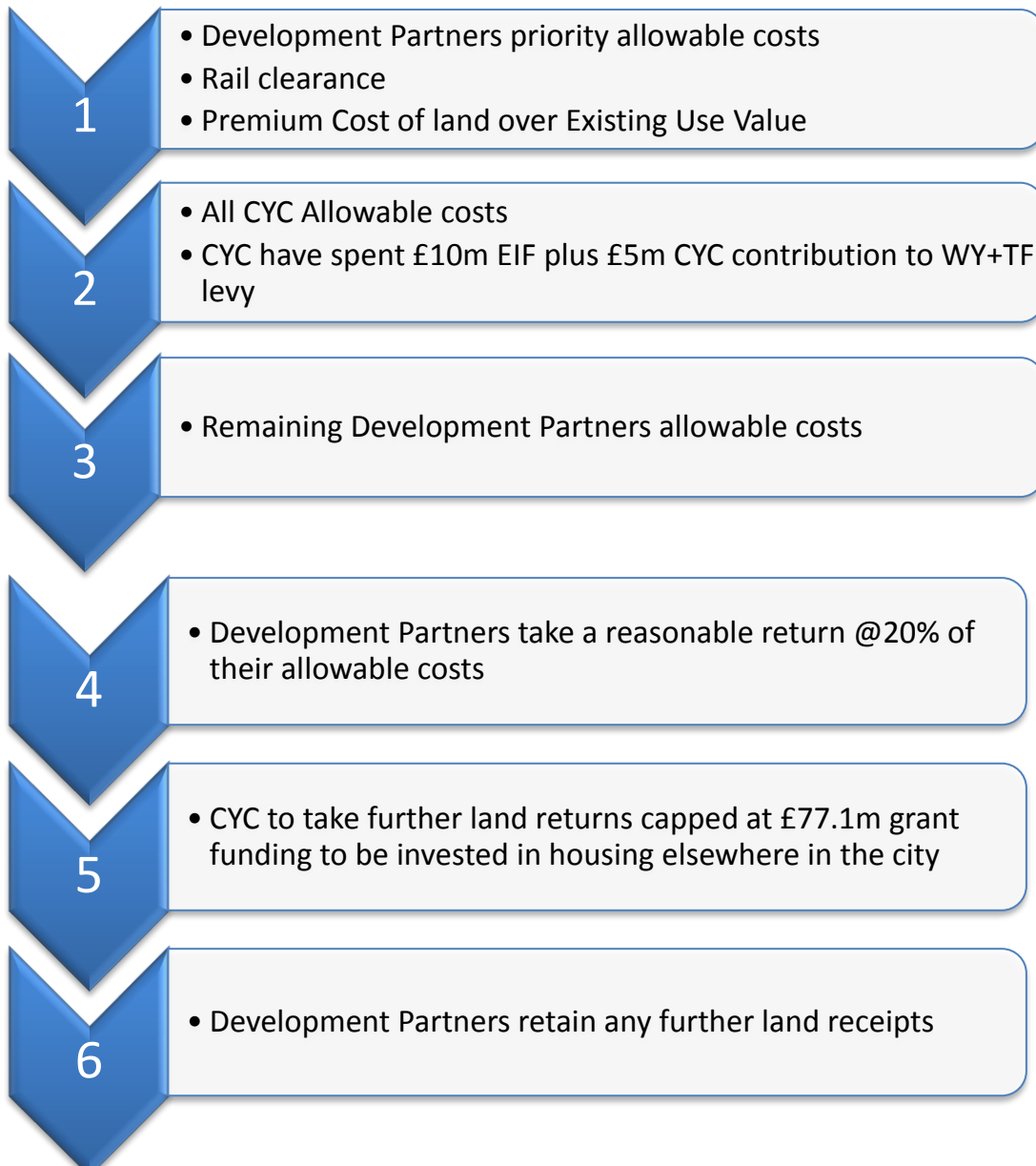
Hudson House, York	0.45 spaces: DU
York Central (apartments)	Maximum of 0.45 spaces: DU
Hungate, York	0.46 spaces: DU
Carlsberg, Leeds	0.46 spaces: DU
Bishopsfields, York	0.66 spaces: DU
Accordia, Cambridge	0.66 spaces: DU
Liverpool Reach, Liverpool	0.67 spaces: DU
Little Kelham, Sheffield	0.82 spaces: DU
York Central (houses)	Maximum of 1.0 spaces: DU
Lotherington Quarter, York	1.00 spaces: DU
The Chocolate Works, York	1.14 spaces: DU
Elevation, Sheffield	1.40 spaces: DU

The Partnership Agreement Financial Mechanisms

39. The YCP heads of terms set out a mechanism for sharing development land value uplift from the delivery of York Central. The YCP is constituted entirely of public sector bodies and is being enabled using significant public grant and business rates-backed borrowing. It is therefore not like a conventional commercial development partnership. Due to the high cost of enabling infrastructure required, public sector leadership and significant grant funding are needed to bring the scheme forward. Without this the scheme is not viable. In this context each partner needs to ensure that the costs they have incurred are recovered and that if there is then any surplus that the level of effort they have put into the scheme and the level of risk they have taken over many years is recompensed in the context that they are each public bodies. This is not a short term scenario and the ultimate commercial returns of the scheme will not be known for up to 15 years.
40. For the city of York it is also essential that York Central delivers sustainable city growth and social economic and environmental benefits for existing residents and businesses and that this growth can be reinvested into the city for the longer term prosperity and wellbeing of the city. Through partnership working to date all partners have abided by the principles of fairness, openness and transparency with a combined approach to sharing the risks and sharing any future financial upside.
41. CYC is the recipient of, and the Accountable Body for, the entire grant funding for the site and is the responsible body for the Enterprise Zone. This means that we are able to undertake prudential borrowing to fund the infrastructure which will be repaid from future business rates. In addition CYC have invested £10m from the E IF to undertake early feasibility and master planning work at risk.
42. The major landowning partners, Network Rail and Homes England have assembled the land from third parties, including the NRM, and between them expect to incur circa £55m on site acquisition and clearance of operational rail use. They have entered into a Collaboration Agreement to combine their land

holdings and to act as master developers for the site. This means that they will be responsible for bringing plots to market, seeking development partners and ultimately realising the land value from the site.

43. The following mechanism is proposed to set out how development costs will be recovered by all parties from land receipts. As land is sold for development the funds will be distributed to partners in the following priority:



44. As plots of land are disposed of by Homes England and Network Rail for development, the money will be distributed as per the priorities set out above. The total potential land value will be driven by a number of changing market forces over the next 15 years so it is impossible to accurately predict the likely value of land receipts but, from development appraisals done to date based upon conservative and prudent estimates, there is a strong likelihood that this model will enable CYC to recoup its' upfront investment costs, assuming that the scheme is successfully developed out.

45. If the scheme is hugely successful this model will recycle up to £77.1m of HIF grant funding back into the city, for investment in housing elsewhere in the city.
46. This model also enables Homes England and Network Rail to recoup their up-front investment and if the scheme is successful to make a reasonable developer return on that investment. This is capped at 20% of their allowable costs. This level of return and the recycling of increased land values above that level into CYC are both prescribed by the HIF funding terms. This gives a clear route to reinvest Central Government grant money into the local area rather than allowing large profits to be drawn away from York.
47. In addition, as part of the Enterprise Zone, CYC will retain 50% of the business rates that would normally be returned to Central Government. As set out in the November 2018 Executive report, modelling shows that with prudential assumptions as to the speed and scale of build out of the commercial elements of the scheme this should be sufficient to repay the £35m of EZ backed borrowing to be undertaken by CYC.
48. If the scheme is very successful there will be more business rates generated than are needed to repay borrowing. Any surplus business rates income will be available for investment in economic development in the York area (decisions to be undertaken in conjunction with the sponsoring YNYER LEP).
49. The most ambitious scenario modelled would see Business rates income of £109m which would repay the borrowing and create a surplus of £52m for investment in economic development in the city.
50. Thus it can be seen that if the scheme is successful, the city stands to gain significantly, with the scheme generating future funding for both housing and economic growth elsewhere in the city. This could total up to £123m over the next 25 years (a £52m potential surplus EZ business rate income plus the local retention of the £77m HIF grant).
51. The YCP Partnership Agreement will protect the financial interests of the council and should see the repayment of all CYC investment as the scheme is built out. There will of course remain the risk that land values do not achieve targeted levels and land sale receipts are therefore not sufficient to repay all partner costs. CYC have already budgeted for the £15m of development and transport costs (£10m EIF and £5m WYTF levy) and the risks of the scheme not generating enough business rates to repay EZ borrowing were covered in the November 2018 report.

Council Plan

52. The project will assist in the creation of a Prosperous City for All, and being a Council that listens to residents particularly by ensuring that :

- I. Everyone who lives in the city can enjoy its unique heritage and range of activities.
- II. Residents can access affordable homes while the greenbelt and unique character of the city is protected.
- III. Visitors, businesses and residents are impressed with the quality of our city.
- IV. Local businesses can thrive.
- V. Efficient and affordable transport links enable residents and businesses to access key services and opportunities.
- VI. Environmental Sustainability underpins everything we do.
- VII. We are entrepreneurial, by making the most of commercial activities.
- VIII. We engage with our communities, listening to their views and taking them into account.

Implications

Financial –

53. In December 2013 Members agreed to earmark £10m towards the delivery of York Central. Currently £6,588k has been released to support technical work, masterplan development through to planning, land acquisition costs and site preparation works. There have also been other grant contributions from WYTF, Homes England, One Public Estate, LCR LEP, YNYER LEP and Department for Communities and Local Government (DCLG) EZ funding.

54. The proposed changes recommended in this report reduce the CYC approvals by £835k (reduction of £1,250k for early site clearance works offset by an increase of £415k for further design works to November). There is also an additional £335k contribution from Homes England. This takes total funding to £11,159k. This is detailed in the table below

	£'000	£'000
CYC – (£10m Allocation)		
Land purchase approval	1,014	
NRM Masterplan contribution	200	
Other Approvals	<u>4,539</u>	
Total CYC		5,753
YNYER LEP		2,890
WYTF Contribution		947
OPE Grant		250
Homes England Grants		1,084
LCR LEP Grant		200
DCLG EZ		35
Total Funding Available		11,159

Table 1 York Central Funding

55. Actual expenditure to June 2019 and current forecast

	Expend £'000
2015/16	112
2016/17	1,565
2017/18	2,197
2018/19	4,764
2019/20 to 30/06/2019	383
Estimated Remaining Expenditure	2,138
Total	11,159

Table 2 York Central Expenditure

56. Any CYC funding will be at risk until a Partnering Agreement is signed and if the HIF funding is not forthcoming and if the scheme does not go ahead then this funding may be abortive. Should the scheme ultimately not be delivered then an element of these costs would be classed as abortive and need to be written off back to revenue. The estimated liability would total £3,739k based on the full spend of £11,159k. This is a reduction of £835k compared to the figure reported to Executive in January 2019.

Human Resources (HR) – none

Equalities – Equalities impacts were considered in the OPA and will be considered in the RMA for the first phase infrastructure

Legal – As identified in the report there are three options to proceed in delivering the first phase of infrastructure. The legal risks associated with each option are as follows:

Option 1 - Mothball project until HIF funding agreed

In respect of the procurement of the construction partner for phase 1 infrastructure works the PSC has been awarded subject to Executive approval of the reallocation of funding, therefore there is low risk of challenge from a procurement or contractual perspective should option 1 be chosen.

Option 2 - Prepare the RMA and undertake ECI services through the PSC contract and Option 3 - Continue Full Design work at risk

The procurement of the construction partner for phase 1 infrastructure works has been carried out using the YORCivils2 Framework and was structured in such a way that ensures the resulting contractual arrangements will not expose the Council to further risk should the HIF funding not be approved. The Council is able to enter into the Pre-construction Services Contract (for ECI services in the first instance) with the successful bidder without an obligation to enter into the further two contracts for the construction phase with that bidder, should

funding not be available to do so. Therefore there is low risk of challenge from a procurement or contractual perspective should option 2 or 3 be chosen.

Information Technology (IT) - none

Crime and Disorder - none

Property – none

Risk Management

57. The previous report in Jan 2019 detailed the key risks of the project progressing and they are still considered to be relevant at this time.
58. Abortive Costs -There is a risk that if the scheme does not go ahead this will result in abortive costs and these costs would need to be written off to revenue. As reported above the potential level of abortive costs is assessed at £3,739k based on expenditure to November 2019. This is a significant sum in the context of the overall council finances however would be mitigated by EZ retained business rates already collected at the site (estimated at £1.3m to the end of 2019/20) as well as future more limited development on the site from the existing infrastructure. Executive has also agreed to set aside up to £3m of the Venture Fund to support the EZ borrowing which would not be required if the scheme were not to progress.

Contact Details

Author:

Chief Officer Responsible for the report:

Tracey Carter - Assistant Director for Regeneration and Asset Management. Tel No. 553419

Neil Ferris – Director of Economy and Place



10 July 2019

Specialist Implications Officer(s)

Financial – Patrick Looker
Finance Manager
Tel No. 551633

Legal – Cathryn Moore
Legal Manager – Projects
Tel No.552487

Wards Affected: Holgate, Micklegate

For further information please contact the author of the report

Background Papers:

Previous Executive Reports:

15 November 2017-	York Central – Preferred Access Route and Preparation for Planning
15 March 2018 -	York Central - York Central Access Construction
21 June 2018 -	York Central Master Plan and Partnership Agreement
30 August 2018 -	York Central Update - Western Access
29 th November 18 -	York Central Enterprise Zone Investment Case
17th January 19 -	York Central Partnership Legal Agreement

List of Abbreviations

BREEAM – Building Research Establishment Environmental Assessment Method
CYC - City of York Council
DCLG – Department for communities and Local Government
ECML - East Coast Main Line
ECI - Early Contractor Involvement
EIF – Economic Infrastructure Fund
EZ – Enterprise Zone
FBC+ - Financial Business Case with full costings
HIF - Housing Infrastructure Fund
HA - Highways Authority
LCR - Leeds City Region
LEP - Local Economic Partnership
LPA - Local Planning Authority
MHCLG –Ministry of Housing Communities and Local Government
NR – Network Rail
NRM - National Railway Museum
OPA – Outline Planning Application
PSC – Pre-Contract Services Contract
RIBA –Royal Institute of British Architects
RMA – Reserved Matters Application
SoS - Secretary of State
WYCA – West Yorkshire Combined Authority
WYTF – West Yorkshire Transport Fund
YC - York Central
YCP - York Central Partnership
YNYER – York, North Yorkshire & East Riding



Executive**18 July 2018**

Report of the Deputy Chief Executive
Portfolio of the Leader of the Council and Executive Member for Policy,
Strategy and Partnerships

Developing the next Council Plan**Summary**

1. This paper outlines a proposed structure for the next Council Plan which will guide council activities over the next 4 years.
2. It then explains the proposed approach to consult the city on the development of the detailed content of the plan, which will be adopted at Full Council in October.

Recommendations

3. The Executive is asked to:
 - 1) Agree the Council Plan Outcomes framework as fit for consultation and approve the roll out of consultation

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

Background

4. Primarily, the Council Plan is the council's corporate strategy to guide how it will operate over the next 4 years, from 2019-2023. It also has a number of other specific functions for different audiences.
5. For Executive, it:

- a. Provides a clear set of expectations against which the council will deliver and the areas against which it will be measured by residents and partners
 - b. Communicates priorities to guide where resources should be deployed by officers
 - c. Provides an opportunity for a clear vision of how the city will develop over this term of office
 - d. May include key policies which it would like officers to develop in pursuit of the stated outcomes.
6. For officers, it:
- a. Sets the priorities to which we will work
 - b. Communicates the vision for our organisation
 - c. Provides the structure around which we can organise ourselves
 - d. Provides the measures through which progress will be understood
 - e. Sets the tone for the culture and behaviours of the organisation
 - f. Identifies how the work of the council will interface with organisations, communities and residents to achieve the outcomes.
7. For partners and residents, it:
- a. Identifies the priorities of the council and the vision for city
 - b. Identifies the areas in which support and collaboration is needed to achieve the outcomes for the city where there is a shared interest.
8. Officers have reviewed other council's plans to get a sense of current best practice. There is a huge variety in approaches as would be expected, but the best plans provide absolute clarity on the outcomes which are being sought, the overall approach and activities to achieve them, how the results will be measured and how it fits in with other strategies. The next Council Plan will aim to provide this clarity for York.
9. The best plans also recognise that the council does not operate in a bubble, nor can it or should it attempt to control all aspects of a place. No one agency can deliver the best outcomes for the city in isolation. The roles of residents, communities, businesses and other organisations are key to collectively delivering shared outcomes for the city. A good plan, therefore, articulates a strong vision of the future which resonates with all parties and allows everyone to see how they might contribute.

Framework

10. We are proposing that the plan is structured around a set of outcomes which are necessary in ensuring the city supports a good quality of life

for residents. This requires balance across a range of social, environmental and economic factors which contribute to a good place. The coverage of the framework aims to be a complete in terms of the factors which make a good place. By considering such a broad range of outcomes, the framework will have relevance to the widest possible group of residents, communities, businesses and organisations who contribute to the city.

11. The proposed framework is attached as Annex A with the outcomes of:
 - 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

12. This has been developed taking into account a variety of factors:
 - a. Building on the One Planet York framework as a lens through which we can view our progress to be a balanced, sustainable and liveable city. This approach has seen success across the city in curating discussion, driving ambition and providing a perspective on our city's performance relative to others. The framework itself is based on international best practice and thinking around what constitutes good place. The proposed framework for the council plan could be seen as an evolution of this.
 - b. The Council's declaration of a climate emergency and ambition to be carbon neutral.
 - c. The UN Sustainable Development Goals, which act as an internationally recognised blueprint to achieve a better and more sustainable future for all. The proposed framework is mapped to these goals.
 - d. The functional responsibilities of the council and the need for the plan to make sense in the context in which we operate.

13. Beyond the plan itself is the intention that the outcomes framework can provides a structure for a whole range of other elements of the council's work, such as our Performance Framework, Service Planning, governance of programme delivery and our organisational approach, behaviours and culture. Consistent use of the themes will lead to familiarity and keep the council plan relevant in people's minds through its duration.
14. Overall, the complete plan will provide the following information:
 - a. The vision for what will be different in the city as a result of the plan
 - b. Specific outcomes which enable this vision
 - c. What the council will do to get there
 - d. What other partners (organisations, communities, residents) can or will do to support the achievement of the outcomes
 - e. The financial context
 - f. How we will measure progress
 - g. The organisational approach officers will take to achieve the stated outcomes. This could include aspects of structure, behaviours and culture
 - h. The relationship to other strategies and goals (local, regional, national, international)

Performance Framework

15. Underpinning the council plan is the performance framework which allows progress and performance to be measured at different levels within the council.
16. The proposed performance framework for 2019-2023 at Annex B describes how this monitoring will take place. Further documents will be presented to Executive with the finalised Council Plan which will illustrate the metrics and measures that will be used to monitor the Council Plan. These will be developed to ensure direct relevance to the outcomes and activities within the plan.

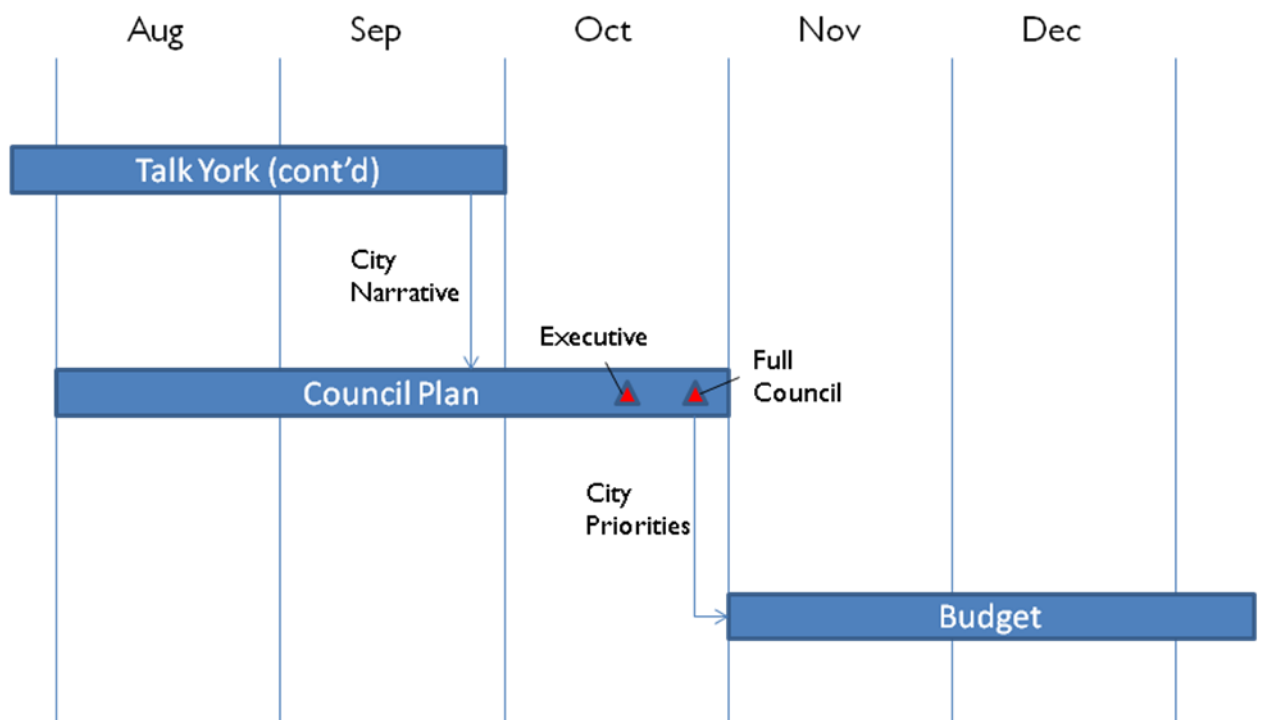
Consultation

17. It is proposed that the outcomes framework is promoted across the city as a call for evidence on what the council, organisations, communities and individuals could do to achieve the outcomes described.
18. This consultation will not focus on debating the framework itself, but instead aim to gather ideas on real activity and the evidence on what

could work best to populate the plan of activity. The questions posed will revolve around:

- a. What people think the council could do to support these outcomes
- b. What individuals, organisations and communities could to support the outcomes.

19. To gather as wide a range of views as possible, all our existing channels will be used as far as possible, following a similar methodology to recent consultation on Talk York, Castle Gateway and York Central. This could include discussions at partnership groups and boards, ward committees, professional networks, residents' panels and forums which are meeting within the timescales. Additional sessions will be arranged if there is not appropriate coverage through these existing channels. Details of these sessions will be promoted on the Council's website.
20. Accompanying this will be an online and paper-based questionnaire which will be promoted to residents and organisations across York, as well as through the networks above and through social media.
21. The consultation period will run from the beginning of August until mid-September. The process will also dovetail with consultation on the budget and city brand which is planned over this period. The following diagram shows the timescales of these consultations and how the learning from each consultation will flow into the next.



22. The results of the consultation will be published as part of the report to Executive and Council in October to inform the final approval decision.

Options

23. The options presented are to:
 - a. Agree the framework as fit for consultation
 - b. Recommend changes to the framework or approach prior to consultation

Analysis

24. The framework presented is based on best practice and insight from local, national and international sources. On this basis, we are confident that it encapsulates the elements which work together to create a good place. There are, of course, many different ways these elements could be grouped or split, but this will not materially affect the activities which we need to develop underneath.
25. The consultation approach will focus on real, tangible activities to lead to the outcomes identified. This should be a very positive opportunity for everyone to engage on how we can move our city forward and achieve the best outcomes for our residents.
26. For these reasons, it is recommended that Executive approve Option a. above.

Council Plan

27. The discussion here will define the Council Plan for the next 4 years (2019-23), and as such contributes to the eventual outcomes.

Implications

28. The Council Plan will have implications in all of the areas below. However, in general, this will not be known until the plan is fully developed.
 - **Financial** – the consultation will run in tandem with Budget Consultation and as such we will ensure that the policy direction in the plan is consistent with the financial context.
 - **Human Resources (HR)** – see above

- **One Planet Council / Equalities** – a full Making Better Decisions Tool will be completed as the plan is developed.
- **Legal** - see above
- **Crime and Disorder** – see above
- **Information Technology (IT)** – see above
- **Property** –see above

Risk Management

29. There are several risks identified in this process, as follows:

- The council plan does not reflect the needs of residents* –
Mitigation: the plan structure is based on a clear set of outcomes required to promote quality of life and good place. The consultation will help to inform the activities which take place to deliver the outcomes, with residents able to contribute to this. The activities defined will also draw on an evidence base to ensure they can realistically be expected to achieve the outcome required.
- The council plan does not support the efficient work of the council* –
Mitigation: The structure has been devised with reference to the way the council delivers services, to facilitate cross organisational working.
- The council plan does not resonate with partners across the city* –
Mitigation: the consultation will allow views to be fed in, and the process will be aligned with the Talk York project which is identifying the commonly-held perspectives on our city.
- The council plan is not aligned with the financial context* –
Mitigation: the consultation will run in tandem with the budget consultation and process to ensure activities identified can be funded.

Contact Details

Author:

Will Boardman
Head of Corporate Policy and
City Partnerships
Tel: 01904 553412

Chief Officer Responsible for the report:

Ian Floyd
Deputy Chief Executive and Corporate
Director Corporate and Customer Services

Report **Date** 10 July 2019
Approved

Wards Affected: List wards or tick box to indicate all **All**

For further information please contact the author of the report

Annexes

Annex A – Proposed Council Plan outcomes framework

Annex B – Performance Management Framework

List of Abbreviations Used in this Report

UN – United Nations

Outcome Area	Outcome Description	How we might measure progress
Good Health and Wellbeing	Every resident enjoys the best possible health and wellbeing throughout their life	Levels of physical activity Levels of obesity Difference in life expectancy across the city
Well-paid jobs and an inclusive economy	High-skilled and better-paid jobs in sustainable businesses, providing opportunities for all York's people in an inclusive economy	Pay levels Levels of employment Levels of skills Levels of disposable income
Getting around sustainably	People benefit from the wide range of transport options available to them, including cycling and walking, with the city's roads, footpaths and cycle network prioritised for improvement.	Proportion of journeys made by public transport/ cycling/walking Road and pathway condition
A Better Start for Children and Young People	Families and carers are supported so that every child and young person has the opportunity to develop, learn and achieve their aspirations.	Gap in achievement Children's perspectives Academic results Proportion of Good and Outstanding schools
A Greener and Cleaner City	York's environment is protected and enhanced through investment in the Council's frontline services on the path to sustainable living	Residents' perception Recycling rates Carbon emissions Flood risk
Creating homes and World-class infrastructure	The right housing is affordable and available alongside good quality infrastructure to support communities and business.	Additional Homes provided Affordable Homes Broadband speed and availability Delivery of major projects
Safe Communities and culture for all	People are safe from harm in strong, resilient and supported communities, enhanced by an appealing and inclusive cultural offer	Antisocial behaviour rates Residents' perception Visitors to cultural attractions
An open and effective Council	We work as an open, transparent and accountable organisation, in partnership with key stakeholders, to deliver on residents priorities and achieve the council plan outcomes for our city	Service timeliness Customer satisfaction Budget position Organisational Health indicators

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Executive**18 July 2019**

Report of the Corporate Director of Children, Education and Communities

Portfolio of the Executive Member for Children, Young People and Education

Children in Care Residential Commissioning Plan**Summary**

1. This report provides recommendations to develop the city's residential provision for children in care, creating nurturing environments informed by evidence based therapeutic practice, supported by step down foster care, which will better meet the current and future needs of children and young people in care aged between 9-18 years of age.
2. The proposals will ensure the council meets the statutory sufficiency responsibility outlined in Securing Sufficient Accommodation for Looked After Children, Department for Education (DfE) 2010, which places a duty on the local councils to have sufficient placements for children in care.
3. Cost and quality of placements are a significant challenge in an area of increasing demand, increasing complexity and increasing budgetary pressure. A lack of sufficiency within York's internal provision is leading to increasing usage of high cost private fostering and spot purchased out of area (OOA) residential placements. This is particularly prevalent within those more difficult to place cohorts such as teenagers and children and young people with more complex needs.
4. This report provides three options for the future of the council's residential provision for children in care.

5. The recommended option requires a capital investment and seeks to use and remodel existing budgets to improve outcomes. It is intended to respond to the current and future challenges of supporting children in care across the city, achieving better outcomes for them and stabilising Children's Social Care placement budgets.
6. At the heart of the recommended option is a systemic model that places children and young people at the centre and recognises their individual needs. The recommended option is intended to provide stable, child focused, family oriented and relationship based provision. This will result in fewer placement disruptions, increased stability which will improve outcomes for specific cohorts of children in care outlined in the paper. Residential provision will only be used when needed which is why the proposal incorporates step down foster care and supported accommodation.
7. The recommended option proposes the council purchasing 3 new buildings which will be leased to external providers to deliver residential care. Leasing properties and funding partnerships have been considered but are less cost effective, see point 37.

Recommendations

8. The Executive is asked to:
 - a. Agree Option 3, which is within the existing revenue budget.
 - b. Recommend to Full Council a capital budget of £1.36m, funded from prudential borrowing, to purchase 3 new buildings for the delivery of residential provision for children in care in York. The revenue costs of the borrowing will be met from existing revenue budgets within Children's Services.
 - c. Agree that delegated authority is given to the Corporate Director, Children, Education and Communities (CEC) to purchase the individual properties required for service delivery within the agreed capital budget.
 - d. Agree to implement the procurement process in line with financial and procurement regulations and appoint selected external provider(s)

- e. Agree that delegated authority is given to the Corporate Director CEC to grant a lease and agree its terms, 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 the council meets its statutory sufficiency duty.

Background

9. The local council has a statutory sufficiency responsibility outlined in Securing Sufficient Accommodation for Looked After Children, DfE, 2010, which places a duty on all councils to have sufficient placements for children in care.
10. Placement sufficiency is a critical issue in York and across the country. All local councils are increasingly using out of area placements from external providers to supplement their internal residential provision. External providers are private organisations that offer spot purchased placements at a significantly higher cost than internal provision.
11. The placement budget provides the biggest cost pressure in the CEC Directorate. In 2018/19 the budget totalled £6.6m however the costs of placements in the year were £7.1m. This was an overspend of £0.5m at the year end (General fund (GF) +£0.6m and Dedicated School Grant (DSG) -£0.1m). There has been growth received in this area for 2019/20 and the placement budget is now £7.1m.
12. York's current residential provision is a contract provided by Hexagon at Wenlock Terrace (WT) which is a 6 bedded home. The contract which started on 7th June 2013 and ends on 7th December 2020, is for 4 beds, with 2 beds being sold by the provider to other local councils, and 2 additional beds outside of York in other Hexagon residential provision. The occupancy rate for 2018/19 on the 6 beds was 71%.

Current situation

13. Children in care figures in York have remained relatively stable in a context of a national increase. York has a strong, stable and experienced group of foster carers who look after the majority of the

children in care. 65% of placements were internal provision at the end of 2017/18, in comparison to statistical neighbouring councils of 53%. The use of private / external provision is 17% in York versus compared with 33% for statistical neighbours.

14. In York more than 60% of the care population is aged 10+ and the number of 10-15 year olds in care is increasing. This correlates with the national picture of a rise in the children in care population of older teenagers, as evidenced within the Care Crisis Review 2018.
15. There is an increased complexity of need which is, in part, caused by young people entering care later in their childhood. This complexity means these children and young people are less successful in foster care. The current residential offer is not suitable resulting in decreased placement stability and poorer educational and social outcomes.
16. Innovative work is being undertaken in York to maintain and reduce the numbers coming into care. A renewed focus on early permanence prioritises decision making to achieve swift journey for children through care into adoptive or family placements. A strengthening of the Edge of Care service to include Family Group Conferences, supports and challenges families to build resilience which reduces the likelihood of a child being looked after. And a strengthened early help offer prevents the need for statutory Children's Services intervention.
17. There is also established work focused on managing care leavers transitions to adulthood. Care leavers are able to access a range of suitable accommodation options including City of York Council (CYC) tenancy through taster and trainer flats, supported and assisted housing and resettlement. This is an example of positive practice delivered through effective partnership and cross Directorate working.
18. Association of Directors of Children Services are working with Mutual Ventures to explore a regional model of commissioning and market management. There is particular focus on how local councils can collectively use their purchasing power to increase placement

opportunities, whether local councils can extend existing in house provisions and how best practice can be shared across the region.

19. Despite this work the residential sufficiency challenges remain in York. A gap and need analysis has been completed and identified the following cohorts of children and young people whose needs are not being met.

9 to 11 years

- Children aged between 9 and 11 years who have experienced trauma, struggle with behaviours, attachment and outcomes at school. They have experienced significant placement moves and disruption, which has compounded the trauma.
- Currently there is no residential offer for children 9-11 years within York

12 to 16 years

- Young people aged 12 to 16 years who have experienced a number of placement breakdowns and who experience significant challenges living in a family setting and achieving positive outcomes.
- Currently this cohort of young people presents the greatest challenge to matching at Wenlock Terrace.
- A lack of a step down to foster care placements can result in these young people remaining in residential homes longer than they need to.

16+ years

- Young people aged 16 plus, who have 'out grown' foster placements or residential provision and are ready to be supported into independence with a flexible and individual package.
- Currently these young people are often placed at Wenlock Terrace which presents a barrier to placing 13-15 years old young people.

Options

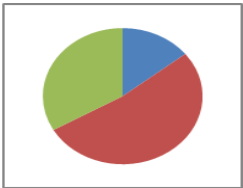
20. The sufficiency options have been developed following
- Analysis of sufficiency data contained within the updated Statutory Sufficiency Strategy

- Mapping of need of hard to place children and young people resulting in a gap analysis
- Predicted future placement demand based on current children in care data
- Market engagement through stakeholder event and follow up structured conversations with providers
- Collation of best practice from other councils
- Internal discussions with Procurement, Legal, Finance, Housing and Children's Services.

Option One

Current position – No change

- Wenlock Terrace (WT) 6 beds delivered by an external provider
- Spot purchase Independent Fostering Agency (IFA)
- Spot purchase out of area (OOA) residential placements


Placement capacity	Beds	
– Wenlock Terrace (blue)	6	
– Spot purchase IFA (red)	22	
– Spot purchase OOA residential (green)	14	
– Total	42	

Revenue	
Annual revenue costs - General Fund (GF)	4 320 000
Dedicated School Grant (DSG)	
Capital repayments	0
Total Revenue costs	4 320 000
Annual variance to current budget	+151 000
5 year variance to current budget	+755 000

Capital	
Capital required	0
Capital receipts	0
Borrowing requirement	0
Annual repayment – 30 years	0

Option two**No City of York Council residential provision, spot purchase only.**

- Sell Wenlock Terrace and have no internal residential provision
- Spot purchase IFA
- Spot purchase all residential placements

Placement capacity	Beds	
– Spot purchase IFA (red)	26	
– Spot purchase OOA residential (green)	16	
– Total	42	

Revenue	
Annual revenue costs (GF +DSG)	4 231 000
Capital repayments	0
Total Revenue costs	4 231 000
Annual variance to current budget	+62 000
5 year variance to current budget	+310 000

Capital	
Capital required	0
Capital receipts (Wenlock Terrace)	(825 000)
Borrowing requirement	0
Annual repayment – 30 years	0

Option three**Purchase 3 new buildings, adapt Wenlock Terrace and procure new external providers to deliver services. Step Down Foster Care**

- 1x 2 bed therapeutic time limited residential provision (9-11yrs)
- 2x 3 bed therapeutic medium term residential provision (12-16yrs)
- Adapt WT to a 6 bed Supported Accommodation (16 -18 yrs)
- Step down Fostering offer
- Spot purchased IFA
- Spot purchased residential

Placement capacity breakdown	Beds	
– 1x 2 bed residential (9-11yrs) (Blue)	2	
– 2x 3 bed residential (12-16yrs) (Blue)	6	
– 6 bed Supported Acc (16-18yrs) (Blue)	6	
– Step down Fostering offer (Blue)	4	
– Spot purchased IFA (Red)		
– Spot purchased residential (Green)	14	
– Total	10	
	42	

Revenue	
Annual revenue costs (GF +DSG)	4 112 000
Capital repayments	55 000
Total Revenue costs	4 167 000
Annual variance to current budget	(2 000)
5 year variance to current budget	(10 000)

Capital	
Capital required	1.36m
Capital receipts	0
Borrowing requirement	1.36m
Annual repayment – 30 years	55 000

21. Consideration has been given to option 3 being delivered internally. The model relies on successful mobilisation / recruitment of residential workers and Registered Managers and will require additional management resources. The council would need to take on responsibility for this regulated the provision, which presents further risk in the context of outcomes and Ofsted.
22. There is no current internal residential unit cost for comparison but financial modelling work would suggest that a likely figure will be an additional £890 000 per year which equates to £4.5m over 5 years.
23. The following cost and budget assumptions were made in order to develop the cost analysis above

- The budget for CYC foster care (mainstream, connected and short break carers) was **not** included.
- Value of Wenlock Terrace is based on an external valuation of £825K
- Capital repayment is incorporated into revenue costs based on repayment over 30 years
- Capital budgets include fees, adaptation, Project Management, inflation and risk contingency costs
- Capital budgets are based on purchasing properties at market value and do not factor any rental income from external providers
- Revenue costs assume a continued use of DSG money.

Analysis - Options appraisal

Option One

Current position – No change

This option does not resolve current gaps nor improve future sufficiency

24. There will be continued matching challenges which will result in the increased numbers of children and young people being placed in Out of Area placements.
25. The option does not provide improved flexibility or required bed capacity in York.
26. The option does not address the gap around 16+ provision.
27. Matching challenges will continue to generate empty bed costs through a low occupancy rate.

Option two

No City of York Council residential provision, spot purchase only.

This option does not take a planned approach to meeting sufficiency needs, leaving the City of York Council vulnerable to market forces.

28. The lack of a contracted provision will mean that commissioning arrangements are not robust which will limit flexibility and control. The market is supply, not demand, led and is currently not meeting the flexibility and diverse sufficiency needs across a range of local councils. Without a block contract arrangement the risk of being unable to provide timely, quality and cost competitive placements increases.
29. Additional time, pressure and risk will be put on the procurement process to arrange and agree each spot purchase.
30. There would be no on-going revenue costs for running an internal provision however the risk of increased costs is significant due to market demand and inflation.

Option three

Purchase 3 new buildings, adapt Wenlock Terrace. Procure new external providers to deliver services. Step down Foster Care

This option increases sufficiency within the city by offering smaller homes for a wider age range and will improve outcomes for children in care.

31. The increased flexibility will result in less challenge in placing children and young people together which will increase bed occupancy and outcomes.
32. A systemic, therapeutic approach to residential provision will improve placement stability and outcomes for individual children in care.
33. Children and young people will not have to remain in a residential home longer than they need because of the provision of linked step down fostering placements.
34. There will be a reduction in the use of external placements for young people under 16 as this option offers more capacity.

35. The Supported Accommodation will provide an appropriate provision for young people aged 16+. It will offer better transitions to independence within York ensuring older young people in care, and care leavers, remain within the city.
36. This option enables a varied approach to meeting the sufficiency need which enables flexibility to respond to an increase or reduction in children in care figures.
37. City of York Council offering buildings at a reduced lease cost enables new providers to bid for service contracts which should increase the market interest and response. Alternative options have been explored including leasing properties or partnerships with Housing Developers and Social Finance. The purchase option provides the lowest revenue cost.

Recommended option

38. The recommended option is option 3 because it will deliver
 - Better outcomes for children in care , by enabling more children and young people with complex needs to be cared for in the city
 - Better outcomes for children in care due to a systemic, therapeutic approach focused on stability and maintaining familial relationship
 - Flexibility of provision will ensure children in care are placed in the home most suited to their needs, resulting in stability of placement and educational outcomes
 - Flexibility of provision which will increased bed utilisation providing better value for money
 - Enhanced future proof provision within the existing budget.

Implementation

39. A project programme using the council's 'All About Projects' methodology been developed that covers the 18 months from Executive approval. The project implementation will need to be complete by December 2020 when the existing residential service contract expires.

40. Decisions relating to the locations of potential new properties will need to consider the following areas / criteria
 - a. **Safeguarding** – properties will need to avoid proximity to crime hotspots and areas of safeguarding risk
 - b. **Connectivity** – properties will need to have good access to public transport
 - c. **Local assets** – properties will need to have good access to local services, schools, parks, leisure centres and sport facilities’
 - d. **Cost** – properties will need to demonstrate value for money in terms of accommodation and price
41. Property specifications have been developed and potential options have been mapped across the city in partnership with colleagues in Property services.
42. Procurement timeline has been drafted by the council’s procurement team to deliver service providers for new service specifications.
43. Registration of new buildings and provision with Ofsted has also been factored into the project programme.

Council Plan

44. Proposals directly relate to following council priority
 - A focus on frontline services - to ensure all residents, particularly the least advantaged, can access reliable services and community facilities

Consultation

45. Early discussions have taken place with children and young people through ‘Show Me That I Matter’ and ‘I Still Matter’. Consultation and engagement will continue following agreement to implement the recommendations. Conversations are taking place with residents at the current residential provision through their social workers, to ensure they are aware of future potential plans and changes.

46. Professionals and key partner agencies have been briefed and initial feedback collated in order to inform options proposed. Again consultation and engagement will continue following agreement to implement.
47. Market engagement has taken place with external providers to explore options, delivery approaches and the ability and capacity of the market to respond to what York requires. This engagement involved an information event and structured conversations with individual providers.
48. Leeds City Council as Lead Commissioners for the White Rose Framework have been consulted on plans and potential procurement routes.

Implications

Financial

49. The financial implications of different options are set out elsewhere in the report. The recommended option will require capital funding of £1.36m, with the borrowing for this being financed from within the service.
50. The expenditure incurred in supporting the current cohort of children and young people requiring a placement exceeded budget by £545k in 2018/19. The expectation is that, as numbers are likely to continue to rise in future years, this overspend will continue to increase. If more cost effective placement options are not developed then these additional placements will have to be made in more expensive IFA or OOA residential settings.
51. General Fund budget growth was provided as part of the council budget strategy 2019/20 into Children's Social Care and this additional funding will mean the recommended option can proceed within budget, and mitigate against future cost pressures in future years

Property

52. Children's Services will work in partnership with the Asset and Property Management Team to identify and acquire the properties needed. The stages are envisaged as follows;
- Identification of the specification of the number, type and location of those assets to be acquired to fulfil the service area need.
 - Property services will search for suitable properties which meet the specification falling within the budget parameters
 - Planning matters will need to be considered and along with the legal title of any properties identified (to ensure no restrictive covenants)
53. It is the Asset and Property Management Team's view that freehold purchase is the preferred route given;
- The council will have greater control over the existing and any future use of the property. This will also provide flexibility of any contracts to third parties, whilst proposed changes to the property will not necessitate any landlords' consents which could restrict use and incur additional costs
 - If the property became surplus to requirements in the future it could then be re-used for other council service needs or sold.
 - Future utilisation levels for the properties would be recommended to be monitored to ensure the right number of properties are purchased to prevent low utilisation and void costs.
54. The proposed capital budget is considered sufficient to purchase the new properties in Option 3. Inflation and risk have been priced into capital budget.

Human Resources

55. There are no staffing implications associated with the proposals set out in this paper, and specifically in relation to the recommended option put forward.

Legal Procurement

56. Legal Services have been made aware of the report and the proposals are within CYC powers.
57. The procurement method for any new service provision will be open and fair, through a transparent competitive process in line with both CYC constitution and UK / EU Law.

Legal Planning

58. Council planning legal advice has been sought to ascertain whether the use of a new property as a small children's home constitutes a change of use from C3 Dwelling House to a C2 residential institution classification. The legal advice has suggested that each new property would require a Certificate of Lawfulness for the proposed use.

Equalities

None at this stage specific to this paper

Crime and Disorder / Police

None at this stage specific to this paper

Information Technology (IT)

None at this stage specific to this paper

Risk Management

59. The following risks have been identified

Operational

- Doing nothing presents a risk to meeting outcomes for children in care
- Agreed option does not meet current or future sufficiency need or challenges
- Children in care numbers increase putting further pressure on placement sufficiency
- Lack of interest from the market resulting in no provider

- New providers do not deliver the required quality and outcomes for children in care

Finance

- Agreed option does not reduce cost pressure on placement budget
- Agreed option is not delivered within agreed capital and revenue budgets
- It cannot be guaranteed that the DSG budget can continue to be used for either CYC or OOA residential placements

Deliverability

- New option is not in place at end of current contract, therefore presenting a gap in internal provision
- Appropriate planning permission may not be granted for new residential homes
- Ofsted registration is not delivered in timescale delaying implementation
- Local community react negatively to new children's homes in their community

Reputational

- Lack of provision will result in the City of York Council not meeting its statutory sufficiency duty
- No new provision in place and the number of residential placements continues to rise. This present a reputational risk to CYC Children's Service with Ofsted.

Annexes

Annex A Better Decision Making Tool

Contact Details

Author:	Officer Responsible for the report:		
Sophie Keeble Group Manager CEC x5322	Sophie Wales Asst. Director CEC		
William Shaw Programme Manager CEC x3334	Report Approved	<input checked="" type="checkbox"/>	Date 21/6/19
	Amanda Hatton Director Children, Education and Communities		
	Report Approved	<input checked="" type="checkbox"/>	Date 21/6/19
Implication Officers			
HR – Claire Waind / Lisa Pannitt Finance – Richard Hartle / David Mountain Legal – Procurement Walter Burns Legal – Planning Glen Sharpe Property – Nick Collins / Philip Callow			
Wards Affected: <i>List wards or tick box to indicate all</i>			All <input checked="" type="checkbox"/>
For further information please contact the author of the report			

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The 'Better Decision Making' tool has been designed to help you consider the impact of your proposal on the health and wellbeing of communities, the environment, and local economy. It draws upon the priorities set out in our Council Plan and will help us to provide inclusive and discrimination-free services by considering the equalities and human rights implications of the decisions we make. The purpose of this tool is to avoid decisions being made in isolation, and to encourage evidence-based decision making that carefully balances social, economic and environmental factors, helping us to become a more responsive and resilient organisation.

The Better Decision Making tool should be used when proposing new projects, services, policies or strategies, or significant amendments to them. The tool should be completed at the earliest opportunity, ideally when you are just beginning to develop a proposal. However, it can be completed at any stage of the decision-making process. If the tool is completed just prior to the Executive, it can still help to guide future courses of action as the proposal is implemented.

The Better Decision Making tool must be attached as an annex to Executive reports. A brief summary of your findings should be reported in the One Planet Council / Equalities section of the report itself.

Guidance to help you complete the assessment can be obtained by hovering over the relevant question.

Please complete all fields. If you wish to enter multiple paragraphs in any of the boxes, hold down 'Alt' before hitting 'Enter'.

Introduction

Service submitting the proposal:	Children Services
Name of person completing the assessment:	William Shaw
Job title:	Children's Services Programme Manager
Directorate:	CEC
Date Completed:	27/06/2019
Date Approved (form to be checked by head of service):	

Section 1: What is the proposal?

1.1	Name of the service, project, programme, policy or strategy being assessed? Children in Care Residential Commissioning Plan
1.2	What are the main aims of the proposal? To develop the city's residential provision for children in care, creating nurturing environments informed by evidence based therapeutic practice, supported by step down foster care, which will better meet the current and future needs of children and young people in care aged between 9-18 years of age
1.3	What are the key outcomes? 1x 2 bed therapeutic time limited residential provision (9-11yrs) 2x 3 bed therapeutic medium term residential provision (12-16yrs) Adapt WT to a 6 bed Supported Accommodation (16 -18 yrs) Step down Fostering offer

Section 2: Evidence

Section 2: Evidence

2.1	What data / evidence is available to support the proposal and understand its likely impact? (e.g. hate crime figures, obesity levels, recycling statistics) Cost and quality of placements are a significant challenge in an area of increasing demand, increasing complexity and increasing budgetary pressure. Gap and need analysis suggests that existing provision has low utilisation and does not meet current or future need. Care Crisis Review 2018 evidences the national increase in complexity for children in care and Narey Report 2016 suggests smaller children's homes deliver increased stability and better outcomes
	What public / stakeholder consultation has been undertaken and what were the findings?

2.2	<p>Early discussions have taken place with children and young people through 'Show Me That I Matter' and 'I Still Matter'. Consultation and engagement will continue following agreement to implement the recommendations. Conversations are taking place with residents at the current residential provision through their social workers, to ensure they are aware of future potential plans and changes. Professionals and key partner agencies have been briefed and initial feedback collated in order to inform options proposed. Again consultation and engagement will continue following agreement to implement. Findings from all consultation support the recommended proposal</p>
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2.3	<p>Are there any other initiatives that may produce a combined impact with this proposal? (e.g. will the same individuals / communities of</p> <p>Work is being undertaken to develop the support, training, remuneration and recruitment of Foster Carers. This will impact on the development of residential provision and a step down foster care offer.</p>
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Section 3: Impact on One Planet principles

Please summarise any potential positive and negative impacts that may arise from your proposal on residents or staff. This section relates to the impact of your proposal on the ten One Planet principles.

For 'impact', please select from the options in the drop-down menu. If you wish to enter multiple paragraphs in any of the boxes, hold down 'Alt' before hitting 'Enter'.

Equity and Local Economy

Does your proposal?	Impact	What are the impacts and how do you know?
3.1 Impact positively on the business community in York?	Positive	The proposal involves the purchase of 3 new buildings, adaptation of an existing building and the procurement of 4 service providers. All these developments present opportunities and a likely impact on local business community
3.2 Provide additional employment or training opportunities in the city?	Positive	New service providers are likely to recruit residential staff from the local area / within the city
3.3 Help improve the lives of individuals from disadvantaged backgrounds or underrepresented groups?	Positive	The proposal will make a significant impact on the lives of children in care. These will be some of the most vulnerable and disadvantaged children and young people in the city.

Health & Happiness

Does your proposal?	Impact	What are the impacts and how do you know?
3.4 Improve the physical health or emotional wellbeing of residents or staff?	positive	The proposal will have a significant impact on the physical/emotional and mental health of children in care in York by providing a safe and stable place to live.
3.5 Help reduce health inequalities?	Positive	The proposal will reduce health inequalities of children in care by ensuring they have effective, stable and therapeutic placements in York.
3.6 Encourage residents to be more responsible for their own health?	positive	The scheme will provide enhanced communal facilities where tenants can chose to run a range of activities and socialise. Well designed independent living properties will allow older people to live independently in their own homes for longer rather than having to move into residential care to have their everyday needs met. Evidence shows that moving into accessible, level, easy to manage properties can reduce residents need for care and support and allow them to continue to make their own daily choices.
3.7 Reduce crime or fear of crime?	positive	The new children's home providers will work with children and young people along with other agencies to reduce crime.
3.8 Help to give children and young people a good start in life?	Positive	The proposal will help children in care to have a good start in live by providing effective, stable and therapeutic placements in York. The development of residential care for 9-11years and a step down foster care foster care offer will make a specific impact in this area.

Culture & Community

Does your proposal?	Impact	What are the impacts and how do you know?
3.9 Help bring communities together?	Mixed	The proposal will impact on local communities. Work will be undertaken with specific areas identified for new children homes to ensure the new provisions are integrated into local communities. There may be some negative feedback from local communities that will need to be managed
3.10 Improve access to services for residents, especially those most in need?	Positive	The location of new children's homes will be carefully considered to ensure children in care have good access to local services eg schools, GPs

3.11	Improve the cultural offerings of York?	Neutral	This proposal will have limited impact on the cultural offerings for York
3.12	Encourage residents to be more socially responsible?	neutral	Work will be undertaken to integrate new children's homes into local community. The proposal will present limited opportunity for local residents to be more socially responsible.

Zero Carbon and Sustainable Water

Does your proposal?		Impact	What are the impacts and how do you know?
3.13	Minimise the amount of energy we use and / or reduce the amount of energy we pay for? E.g. through the use of low or zero carbon sources of energy?	Neutral	New children homes will be located with good access to public transport. The purchase and adaptations of new buildings will consider energy efficiency
3.14	Minimise the amount of water we use and/or reduce the amount of water we pay for?	Neutral	The purchase and adaptations of new buildings will consider water efficiency

Zero Waste

Does your proposal?		Impact	What are the impacts and how do you know?
3.15	Reduce waste and the amount of money we pay to dispose of waste by maximising reuse and/or recycling of materials?	Neutral	The adaptations and operation of new buildings will consider recycling of materials and waste.

Sustainable Transport

Does your proposal?		Impact	What are the impacts and how do you know?
3.16	Encourage the use of sustainable transport, such as walking, cycling, ultra low emission vehicles and public transport?	Positive	New children's home will be located with good access to services, amenities and public transport, which will encourage and enable the use of sustainable transport ie walking, cycling and public transport
3.17	Help improve the quality of the air we breathe?	Neutral	The proposal will have no impact on the air we breathe

Sustainable Materials

Does your proposal?		Impact	What are the impacts and how do you know?
3.18	Minimise the environmental impact of the goods and services used?	neutral	There will limited impact in this area

Local and Sustainable Food

Does your proposal?		Impact	What are the impacts and how do you know?
3.19	Maximise opportunities to support local and sustainable food initiatives?	neutral	The proposal will have limited impact in this area

Land Use and Wildlife

Does your proposal?		Impact	What are the impacts and how do you know?
3.20	Maximise opportunities to conserve or enhance the natural environment?	Neutral	The proposal will have limited impact on natural environment
3.21	Improve the quality of the built environment?	Positive	This proposal will improve the quality of children's homes provided to children in care that need this provision.
3.22	Preserve the character and setting of the historic city of York?	Neutral	The proposal will have no impact on this area
3.23	Enable residents to enjoy public spaces?	Positive	New children homes will be located with good access to public space, which will enhance the ability of children in care to enjoy these spaces.

3.40	Additional space to comment on the impacts		
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Section 4: Impact on Equalities and Human Rights

Please summarise any potential positive and negative impacts that may arise from your proposal on staff or residents. This section relates to the impact of your proposal on **advancing equalities and human rights** and should build on the impacts you identified in the previous section.

For 'Impact', please select from the options in the drop-down menu.
If you wish to enter multiple paragraphs in any of the boxes, hold down 'Alt' before hitting 'Enter'

Equalities

Will the proposal **adversely impact** upon 'communities of identity'?
Will it **help advance equality** or **foster good relations** between people in 'communities of identity'?

		Impact	What are the impacts and how do you know?
4.1	Age	Positive	The proposal is targeted at providing high quality residential provision for children in care in York.
4.2	Disability	Neutral	This proposal is not targeted at children with disabilities
4.3	Gender	Neutral	The proposal is gender neutral
4.4	Gender Reassignment	Neutral	The proposal will not have a specific impact on any of these groups.
4.5	Marriage and civil partnership	Neutral	
4.6	Pregnancy and maternity	Neutral	
4.7	Race	Neutral	
4.8	Religion or belief	Neutral	
4.9	Sexual orientation	Neutral	
4.10	Carer	Neutral	
4.11	Lowest income groups	Neutral	
4.12	Veterans, Armed forces community	Neutral	

Human Rights

Consider how a human rights approach is evident in the proposal

		Impact	What are the impacts and how do you know?
4.13	Right to education	Positive	The proposal will promote the rights of children in care particularly around safeguarding, to be heard and education
4.14	Right not to be subjected to torture, degrading treatment or punishment	Neutral	
4.15	Right to a fair and public hearing	Neutral	
4.16	Right to respect for private and family life, home and correspondence	Neutral	
4.17	Freedom of expression	Positive	
4.18	Right not to be subject to discrimination	Neutral	
4.19	Other Rights	Positive	

4.20	Additional space to comment on the impacts		



Section 5: Planning for Improvement

	What have you changed in order to improve the impact of the proposal on the One Planet principles? (please consider the questions you marked either mixed or negative, as well as any additional positive impacts that may be achievable)
5.1	One planet principles will be more actively considered during the purchasing and adaptations of new buildings and the procurement of new service providers. The proposal if agreed will have a significant impact on the health, educational, emotional and mental health outcomes for children in care in York.

	What have you changed in order to improve the impact of the proposal on equalities and human rights? (please consider the questions you marked either mixed or negative, as well as any additional positive impacts that may be achievable)
5.2	Consideration around equalities and human rights will be written into the service contracts for new services providers for residential care for children.

	Going forward, what further evidence or consultation is needed to ensure the proposal delivers its intended benefits? e.g. consultation with specific vulnerable groups, additional data)
5.3	If agreed, more detailed consultation will be undertaken with key stakeholders including children in care to ensure they influence the design and delivery of new service provision.

5.4	Please record any outstanding actions needed to maximise benefits or minimise negative impacts in relation to this proposal? (Expand / insert more rows if needed)
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Action	Person(s)	Due date
Ensure location of new children's homes have good access to public space, services, amenities and public transport	CYC project and property team	Prior to contract commencement
Ensure rights and equalities are considered and written into service contracts for new providers	CYC project and procurement team	Prior to contract commencement
Ensure recycling of waste is considered and written into lease documents with new service providers	CYC project and legal team	prior to completion of the scheme
Ensure new children's home are located in safe areas and any location specific safeguarding risks are managed carefully	CYC project team and police colleagues	Prior to signing contract and during delivery.

In the One Planet / Equalities section of your Executive report, please briefly summarise the changes you have made (or intend to make) in order to improve the social, economic and environmental impact of your proposal.

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Executive**18 July 2019**

Report of the Corporate Director of Children, Education and Communities
Portfolio of the Executive Member for Children, Young People and Education
seek

**The Provision of School Places and Allocation of School Capital
Budgets 2019 – 2023 to address secondary place pressures**

Summary

1. This report provides members with an update on the work taking place to manage the schools capital programme during the period 2019-2023. It sets out the current options and risks associated with the management of place pressures in the secondary phase in the south and the east of the city and requests approval of a recommended approach to dealing with and mitigating these risks.

Recommendations

2. The Executive is asked to:
 - 1) Consider the options and risks associated with the growth in demand for secondary school places in the south and east of the city.
 - 2) The options presented all contain levels of risk in delivering the local authority's statutory sufficiency duty. Members are asked to approve option 2 detailed in paragraphs 14, 19 and 20 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). This represents the option which is currently most cost effective and minimises the majority of the likely risks associated with the delivery of additional secondary school places in a sustainable way.

Reason: 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.

Background

3. The Local Authority (LA) has a statutory duty under the 1996 Education Act to ensure a sufficient supply of good/outstanding school places in its local area. To deliver this duty the LA will need to work with the Department of Education, all local partners and stakeholders including multi-academy trusts to ensure that we are able to meet the demands of demographic change, parental choice, approved and planned *future housing developments and in-year pressures on school places as families move into the city.*
4. *The effective and efficient management of the local authority's statutory school sufficiency duty is dependent on a number of important factors:*
 - *Having an in-depth understanding of the capacity of the current estate;*
 - *Maintaining an overview of patterns of parental choice through the annual school admissions process;*
 - *Understanding the patterns of demographic change and growth created by existing population trends and by new and projected housing developments including Local Plan sites;*
 - *Working with neighbouring local authorities to better understand supply and demand pressures and to identify the opportunities for joint strategic planning to aid the efficient and cost effective delivery of additional school places.*
 - *Understanding the impact of changes to the school system and the role of the local authority in the development of school provision which have created additional challenges and constraints in the delivery of the school sufficiency duty.*
5. Extensive work on pupil projections has taken place over the last two years which has enabled the Local Authority to better understand local area needs in terms of school places and identify areas of the city where deficit of places are anticipated.

6. Projections have indicated that work is now required to add additional school places across several areas of the city. The most significant place pressures are at secondary school level, although there is some localised pressure for additional places at primary school level in a limited number of areas of the city. The table below shows the forecast surplus/deficit of Year 7 – 13 places for the next 7 years for York as a whole. However, these overall projections mask specific areas of pressure, with this being particularly acute in the east and south of the city.

Forecast Years 7 - 13 Pupil Numbers York Secondary Planning Area :							
	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26
Surplus / (Deficit)	512	311	155	17	(89)	(116)	(95)

7. As described in paragraph 6 there is increasing place pressure across the secondary phase which requires the local authority to add additional places in a number of schools across the city; in the period up to 2023 the most urgent of these issues are in the east and south. A budget of £10.4m has been set aside from the total basic need budget of £22.2m to address the pressures in those two areas and this paper outlines the options and associated risks involved in these delivering additional places .
8. In order to meet need the Local Authority has the option of working with existing schools and multi-academy trusts to grow school places or work with new providers through the free school presumption process. Consultation with Pathfinder and the South York multi-academy trusts is taking place to consider the feasibility of expansion possibilities at Archbishop Holgate’s Church of England Academy and Fulford School. Some funding will need to be released to commence feasibility work at both sites.
9. This work will inform the development of plans for expansion at both sites. Both multi-academy trusts have shown a commitment to working with the local authority to support its sufficiency duty and both secondary schools are currently oversubscribed with continuing high levels of parental preference and a growth in pupil numbers within their catchment areas. The current growth of pupil numbers in the catchment areas of both schools means that some additional pupil places will need to be created for the start of the academic year 2020/21 meaning that any capital works will need to commence in early 2020 and be completed by September 2021.

10. The table below shows the forecast surplus/deficit of Year 7 – 13 places for the next 7 years for the East York School Planning Area, which is a single school planning area, containing the secondary catchment area for Archbishop Holgate’s CE School.

Forecast Years 7 - 13 Pupil Numbers East York Secondary Planning Area :							
	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26
Surplus / (Deficit)	(20)	(80)	(111)	(149)	(159)	(156)	(146)

11. The table below shows the forecast surplus/deficit of Year 7 – 13 places for the next 7 years for the South East York School Planning Area, which is a single school planning area, containing the secondary catchment area for Fulford School.

Forecast Years 7 - 13 Pupil Numbers South East York Secondary Planning Area :							
	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26
Surplus / (Deficit)	(45)	(97)	(155)	(173)	(191)	(163)	(153)

12. The table below shows the forecast surplus/deficit of Year 7 – 13 places for the next 7 years for the West York School Planning Area, which contains the secondary catchment areas of Millthorpe and York High and any relevant pupil projection information on All Saints' RC and Manor CE. Although the table below shows a small surplus of places at a whole school level for this planning area, this masks the pressures felt by some schools within this area and in some year groups. Further work will be taking place to present the options for addressing future pressures in the West and a paper will be presented to the council’s executive for decision in 2020.

Forecast Years 7 - 13 Pupil Numbers West York Secondary Planning Area :							
	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26
Surplus/(Deficit)	139	111	111	76	45	30	85

Options

13. Option 1: Do nothing
14. Option 2: Work with the Pathfinder and South York multi-academy trusts to add additional classrooms and social spaces to Archbishop Holgate’s and Fulford secondary schools to accommodate the growth in pupil numbers using basic need to fund both expansions. If this is the preferred option, further papers will be brought back to the Executive for each of the two schemes once the feasibility work is completed and

plans have been drawn up to seek solutions to any access and transport issues and ensure they meet planning requirements.

15. Option 3: Build a new secondary school through the free school presumption route.
16. Option 4: Transport additional pupils from the east and south catchment areas to other schools that have spare places.

Analysis

17. There are risks associated with each of the options outlined above with no completely risk free option being available.
18. Option 1 to do nothing would result in a large number of children being unable to access secondary school places in York. This would be reputationally damaging to the council as it would have failed to deliver its statutory duty to deliver sufficient school places in its area and this would trigger intervention by central government.
19. Option 2 to work with the Pathfinder and South York multi-academy trusts to add additional school places at Archbishop Holgate's and Fulford secondary schools would mean that the council could deliver its statutory sufficiency duty and that children living within the catchment areas of the two schools could access a school place close to their homes. This option would also mean that parental preference could be met. It would also add places to existing outstanding provision so the quality of provision would be maintained. Both multi-academy trusts currently work in partnership with the council through the York Schools and Academies board and have a commitment to providing and maintaining inclusive education.
20. There are however risks associated with both these capital schemes as both schools are urban sites with limited outdoor space and this would have to be taken in to account in looking at design options as part of the feasibility studies. There are also access issues at Fulford School related to transport which would need to be resolved as part of the masterplan for the further development of the school site. Adding additional places to these existing schools would be the most cost effective way of meeting the rise in pupil numbers as it would minimise transport and capital development costs and the build could deliver additional places within the timescale outlined in paragraph 7. However,

in both schemes there are complex planning issues which will need to be addressed before any funds are allocated.

21. In considering option 3, current pupil projections show that the total number of additional secondary pupil places needed would be approximately 400. A secondary school of this size would be unsustainable and would not provide value for money. In order to open a new school using the free school presumption route the council would need to have sufficient funding to cover the purchase of a site, the capital costs of building the new school and the revenue costs associated with equipping and running the new school. This would require a minimum of £25 million which is above the total basic need allocation currently available to the council. It would also take at least three years to build and open the new school meaning that current pressures could not be met. Option 3 would involve inviting new providers in to the city through the free school presumption route.
22. Option 4 would involve the Local Authority having to transport pupils from the east and south to other parts of the city where school places were available. This would add to the general fund pressures as school transport is a cost to the general fund. It would also be reputationally damaging for the council as parental preference would not be delivered in the east and the south.
23. As discussed above none of the options presented are without risk however members of the Executive are asked to allocated £10.4m of basic need funding to add education facilities including classrooms at Archbishop Holgate's and Fulford secondary schools as this represents the most deliverable and reasonable solution from the options available.

Human Resources (HR)

24. There are no HR implications.

Legal

25. The Local Authority has the legal responsibility to ensure the sufficiency of school places within its area.

Finance

26. The budget in the Children's Services Capital Programme that is referred to in this report is the main Basic Need scheme. The total

amount unallocated and available within the scheme for the period 2019/20 – 2021/22 is approximately £21.4m. The proposal detailed at Option 2, if approved would require earmarking approximately £10.4m of this unallocated balance, leaving an amount of £11m available for dealing with other place pressures across the city.

27. Basic Need funding is provided from central government to local authorities based on projected pupil numbers. Each local authority provides an annual return to the Department for Education setting out their projections. The City of York Council's return over the last few years has been projecting increased pupil numbers across the secondary phase but also in a small number of primary school areas. This has resulted in the build-up of the basic need funding which now needs allocating to individual schemes and for the works to begin to provide for the places that are now required.

Crime and Disorder

- 28 There are no Crime and Disorder implications.

Information Technology (IT)

- 29 There are no IT implications.

Property

- 30 Some of the schools which may need to expand will be academies and will be part of a larger Multi Academy Trusts. Legal advice will need to be provided in each case before final decisions are made around each project.

Other

- 31 There are no other identified implications.

Risk Management

- 32 The Council needs to address any potential shortage of school places across its area whilst ensuring it has sufficient funds to increase school places where required. This paper seeks to allocate funding to add additional secondary school places to meet pressures in the east and the south of the city enabling a clear plan in terms of meeting parental preference and ensuring sufficient funding is available.

Contact Details

Author:

Mark Ellis
Head of School Services
School Services
01904 554246

Chief Officer Responsible for the report:

Amanda Hatton
Corporate Director, Children, Education
and Communities

Report **Date** 3 July 2019
Approved

Specialist Implications Officer(s) List information for all

Financial
Mike Barugh
Principal Accountant
01904 554573

Implication ie Legal
Name
Title
Tel No.

Wards Affected: All wards

For further information please contact the author of the report



Executive**18 July 2019**

Report of the Deputy Chief Executive / Director of Customer and Corporate Services
Joint Portfolio of the Executive Members for Housing and Safer Neighbourhoods and for Finance and Performance

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

1. This Annual Report updates the Executive on the following:
 - any ongoing impact of recent and imminent welfare benefits changes in York, including Universal Credit, and importantly the support available for residents in dealing with these challenges;
 - an update on benefits statistics and performance as administered by the council including the York Financial Assistance Scheme;
 - other financial inclusion (FI) activity during 2018/19 including delivery of FI grant schemes;
 - proposed action to implement the agreed recommendations from the Financial Inclusion Scrutiny Review as approved by Executive on 18 March 2019.

Recommendations

2. The Executive is asked to:
 - a) note the report; and
 - b) approve the actions to deliver the agreed recommendations from the Financial Inclusion Scrutiny Review (as approved 18th March 2019).

Reason: *to ensure councillors, residents and groups are aware of financial inclusion activity and use of associated funding, to be updated on welfare benefits changes and impacts. Also to ensure approved scrutiny actions are implemented.*

Welfare Benefits Update

3. The council provides a broad range of support to residents in need of support through the York Financial Assistance Scheme (YFAS), Council Tax Support (CTS) and Discretionary Housing Payments (DHP). In addition the council provided tailored digital support and personal budgetary advice in respect of Universal Credit (UC) claimants until the responsibility was transferred to the Citizens Advice Bureau nationally in April 2019. This report looks at the current effects of the rollout of UC, support provided by YFAS and the work of FISG which was set up in January 2013 with the aim of addressing the root cause of financial inequality.¹

Latest annual UC Statistics

Table 1 – Number of customers on UC by month

York UC Claimants 2018-19			
Month 2018/19	Not in employment	In employment	Total
Apr-18	1,917	1,569	3,486
May-18	2,057	1,698	3,758
Jun-18	2,182	1,775	3,957
Jul-18	2,232	1,919	4,155
Aug-18	2,292	1,908	4,202
Sep-18	2,461	1,965	4,424
Oct-18	2,624	2,053	4,677
Nov-18	2,727	2,073	4,795
Dec-18	2,826	2,189	5,013
Jan-19	2,651	2,280	4,929
Feb-19	2,835	2,053	4,889
Mar-19	3,014	1,991	5,005

This information is collated from the DWP official published data at <https://stat-explore.dwp.gov.uk>.

4. Table 1 above shows the number of residents claiming UC since April 2018 (data from the Department of Work & Pensions - DWP). The numbers increased by an average of 126 people per month; however seasonal differences are emerging. During the period from September 18 to December 18 UC claimants increased by 586, whilst during January and February they reduced by 124.

¹ Membership includes council directorate representatives, Citizens Advice York (CAY), Advice York (AY) and South Yorkshire Credit Union (SYCU) as well as the relevant Executive Member

Table 2 – Number of customers supported by the council April 2018 to date

UC figures from Full Service Go Live 2018/19	April	May	June	Q1	July	Aug	Sept	Q2
	Self Service at West Offices	11	10	9	30	3	3	2
Self Service York Explores	0	0	0	0	0	0	0	0
ADS* appointment single	15	14	10	39	8	11	19	38
ADS appointment couple	3	3	6	12	4	1	6	11
ADS appointment total	20	20	25	65	16	13	25	54
PBS** Appointments	10	4	4	18	7	3	2	12

UC figures from Full Service Go Live 2018/19	Oct	Nov	Dec	Q3	Jan	Feb	Mar	Q4	Total
	Self Service at West Offices	5	7	2	14	2	3	1	6
Self Service York Explores	0	0	0	0	0	0	0	0	0
ADS* appointment single	12	12	3	27	3	1	10	14	118
ADS appointment couple	1	0	1	2	0	0	5	5	27
ADS appointment total	13	12	4	29	3	8	15	26	174
PBS** Appointments	3	0	0	3	1	0	0	1	34

*ADS = Assisted Digital Support

**PBS= Personal Budgeting Support

5. The number of customers that requested Assisted Digital Support (ADS) and Personal Budgeting Support (PBS) remained lower than expected, but reflects the pattern of claimants through the year, increasing during autumn and dropping off in the new year.
6. The council started to review the delivery and publicity for UC support in September 2018 and was implementing a number of actions to improve the service and take up when the Government announcement came in November 2018 that the service nationally would be taken over by Citizens Advice Bureaux from April 19. The council, Citizens Advice York (CAY) and other partners worked closely to ensure a smooth transition to the new service.
7. The council has updated and circulated information about the new service and how customers can access support.
8. In addition to the above local data, national statistics show that the transfer or migration of customers from Housing Benefit (HB) to UC slows substantially after the 1st year of full service as shown in Table 3

below. It is too early to predict how this trend will affect the HB caseload in York as 'full service' has only been in place for a year.

Table 3 - Full Service Migration Rates from HB to UC over time

Measure	Year 1	Year 2
Lowest	6%	1%
Median	19%	5%
Highest	36%	14%

9. Over the last 12 months council tenant rent arrears increased until the last few months of the financial year, when there was steady reduction and the service exceeded the target of a 1% reduction overall for 2018/19. There are 1223 council households on UC with a current arrears balance of £447,075.76 and an increase of £153,253.49 since April 2018. This is due to the UC paying one month in arrears.
10. Officers have supported tenants through some very difficult times encouraging tenants to downsize to help with their financial distress and encouraging payment by Direct Debit. As such there has been a significant increase in the take up of this method of payment.
11. The introduction of the 2 week 'run on' for those transitioning from HB to UC and increased access to advance payments has had some impact on reducing financial pressures faced by new UC claimants.

Full Transition to UC

12. The DWP has paused plans for the full scale national roll out of the 'managed migration' of millions of claims from legacy benefits to UC. It will now be piloted in specific areas during 2019 to around 10,000 claimants. Harrogate is one of the pilot areas from July 2019, so CYC officers will be watching and learning from their experiences.
13. There have been, however, recent changes to the 'live' UC service which extends its reach so it now includes new claims for families with 3 or more children, and mixed age couples where one is under state pension age. Information has been updated for staff and customers.
14. The transition implications of moving approximately 5000+ existing working age Housing Benefits claimants in York to UC are likely to put increasing pressure on available support across the city. The current UC cohort are customers who move in and out of work, are younger and are used to the digital technology required to avoid UC sanctions. The core Housing Benefit customers have only known Housing Benefit, do not receive rental payments directly and approximately 40% are one parent

families. The pressure that has already been felt across the advice sector by partners and via financial relief schemes available, which are discussed in the next section of the report, will potentially seem insignificant compared to what may happen at full transition.

Encouraging applications to the Council Tax Support (CTS) Scheme

15. Over that last few years the council has worked with Advice York (AY) and other partners to promote the CTS scheme amongst member organisations and support workers. This work is continuing but the scheme is still under claimed by residents.
16. From May 2018 changes were made to the application process for CTS by introducing a new combined on-line claim form for both CTS and Discretionary Housing Payments (DHP). This allows customers to apply for help from both schemes together, raising the profile of both and allowing decision makers to consider the most appropriate and effective support. Feedback from this change has been positive.
17. Faced with a rising tide of costs getting by on a pension can be difficult. however, the number of older people in York receiving CTS has reduced by 26% over the last five years. The council has arranged two information events in June 2019 to raise awareness of CTS. The events are being organised alongside the council's 4 Community Growth team as well as Age UK York, Older Citizen's Advocacy York, Tang Hall Big Local, the Joseph Rowntree Housing Trust and other Advice York partners.
18. There is further work planned to increase the take up of CTS as part of the work on improving UC support and advice. Information about the scheme will be included in updates for support workers and partner agencies including CAY and AY.

Discretionary Housing Payments (DHP)

19. The council received £226.4k in government funding for DHPs for 2018/19 and allocated an additional amount of £27k from CYC's own budget, as there was a significant increase in need through the year. Final spend during the year was £245k.

20. In 2018/19 the council spent 100% of the government grant and whilst the number of DHPs awarded reduced slightly, the average award increased from £380 to £469. There was a small increase in one-off payments and a significant increase in awards for people receiving UC, increasing from 32 in 2017/18 to 145 in 2018/19. See annex 1 for a further breakdown of the awards.
21. The higher level of applications seems to be as a result of the cumulative effects of moving to UC and from people who are having large deductions taken from their UC payments for rent arrears, utility arrears, overpayments and UC budgeting loans. The scale of these deductions is leading to a considerable shortfall in income for some residents.
22. The majority of DHP cases continue to be as a result of the shortfall between a customer's rent and the Local Housing Allowance (LHA) rate so are not specific to UC cases.
23. 'Overlapping benefit', paid when a customer moves from one property to another and has an unavoidable dual liability for rent, does not exist in UC as it did in HB so the council is seeing an increase in claims from people who need help with rent at the original property as UC only covers the new one (a change of address can trigger a new claim for UC).
24. The customer's lack of understanding of how UC works and anomalies in the design and implementation are continuing to cause hardship and as a consequence leading to DHP applications.
25. An example of this is where a claimant receives two four weekly wages in the same assessment period which removes entitlement to UC for that month. They also lose the work allowance for this period. For claimants whose UC includes housing support this is £287 per month. This leads to considerable budgeting difficulties and as a result customers fall into arrears and try claiming DHP to help with the arrears.

York Financial Assistance Scheme (YFAS)

26. The YFAS scheme was established in April 2013, following the transfer of responsibility (and initially funding) from central government. The former national scheme, delivered by the DWP, was part of the Social Fund. YFAS is now fully funded and locally administered by the council and can assist residents to stay or move into the community or with emergencies.
27. During 2018/19 the council undertook an officer review of YFAS emergency and community awards. As a result of the review a number of activities have been undertaken to improve services to customers.

28. CYC arranged four workshops aiming to increase understanding of the scheme across the city, improve the quality of applications and help ensure that appropriate awards and support is given. The workshops were attended by 72 people from 17 organisations across the city, including 34 staff members from across the council.
29. As a result of feedback, CYC has been working to improve the YFAS online application form to:
- encourage people explain more about their situation when they apply;
 - encourage people to provide details of other support they are receiving;
 - enable people to send supporting evidence with their application; and
 - enable a copy of the completed claim form to be saved.
30. These changes should reduce the time waiting for supporting evidence, reduce the number of people having to come in to West Offices and help to get better information to help get the best decision the first time.
31. The review is continuing to look at the information the council gives to people who apply for YFAS and CTS, about other support and advice available both from CYC and other agencies across the city, including website information and application decision notification.
32. In 2018/19 1,076 YFAS applications were received, of which 38% were awarded assistance. See annex 2 for more details.

*Table 4 – YFAS
outturn 2018/19*

Overall Spend Totals			
Category	Budget	Spend	%
Emergency	£14,000	£ 14,036	100%
Community Council Tax Support	£135,590	£191,164	141%
	£60,000	£ 18,832	31%
Total Spend	£209,590	£228,341	109%

Activities funded by the Financial Inclusion Steering Group (FISG)

33. This section of the report covers other activities funded by the council that have supported financial inclusion during 2018/19.
34. FISG is responsible for overseeing the delivery of financial inclusion work and also has strategic oversight of the council's DHP, YFAS and CTS schemes. Membership consists of key CYC directorate representatives, the CAY and the Community First Credit Union. Until May 2019 the Executive Member for Adult Social Care & Health

attended and thereafter the Executive Member for Housing & Safer Neighbourhoods.

35. It awards grants to partners to deliver projects that meet the group's objectives. It had an agreed base budget of £100k for 2018/19 plus an additional £25k per year for two years (from 2017/18) to fund specific debt advice related support work.

The group's purpose is:

'To ensure that local people have the knowledge of and access to appropriate services, allowing them to make more informed choices to achieve and maintain financial stability'.

36. The aim of the group is to secure the following outcomes:

- Ensure that residents have the knowledge to manage their finances effectively
- Better coordination of advice services across the city
- Advice givers and those 'sign posting' better understand the welfare benefits system
- Explore opportunities to reduce general living expenses.

37. To target resources effectively to support those that need it most, bids are invited from partners across the sector for projects that promote financial inclusion. These are subject to panel selection with organisations making a presentation about their proposals. Rigorous selection is made against a range of criteria. Funded schemes are subject to the council's Financial Regulations and a Service Level Agreement is put in place for each project. Grants are paid by instalment with regular reporting on progress built in to ensure delivery.

Current outcomes of projects funded in 2018/19

38. The 2018/19 bidding round generated the highest level of interest to date with fifteen bids coming forward with a total value well exceeding the funds available. Nine projects were successful with grants totalling £166,358. Seven were bids that built on existing projects and two were new, summarised in the table below. (Note: the table includes the existing two year project on specialist debt advice awarded in 2017/18).
39. A decision was taken on 21/1/19² to provide extra funding to extend five of the projects to 30/9/19 in order to avoid their cessation in the transition period to the new administration. The total additional funding amounted to £28,960.21. This is reflected in table 5 below.

² <https://democracy.york.gov.uk/ieDecisionDetails.aspx?ID=5434>

Table 5: Grants awarded in 2018/19

Organisation / Project Title/Duration/Funding	Aim/Key Outcomes to date
<p><i>Citizens Advice York</i></p> <p><i>'Specialist Debt Support Service'</i></p> <p><i>2 yrs: 1/7/17 to 30/6/19 but extended to 30/9/19</i></p> <p><i>Grant: £48,875+ £6,234.38 to extend to 30/9/19</i></p>	<p>Aim - Provide a specialist debt caseworker to support residents to manage debts / budgets / build confidence in money management for future. Appointments at CAY, community venues and via phone.</p> <p>Outcomes:</p> <ul style="list-style-type: none"> ○ 70 clients accessed 140 appointments ○ 435 debts valued at £301,476 being managed ○ 3 clients had total of £15k (annual) benefit income increased ○ 12 charity applications made, generating £940. ○ 26 clients referred from other advice agencies ○ Continues to be high demand for services.
<p><i>Older Citizens Advocacy York (OCAY)</i></p> <p><i>'Benefits advocacy'</i></p> <p><i>1 year: 1/10/18 to 30/9/19</i></p> <p><i>Grant: £4,901</i></p>	<p>Aim - Deliver comprehensive advocacy (emotional/ practical) support to residents who are at risk of not receiving their full entitlement to welfare benefits and falling into poverty. Will help to manage the difficulties experienced by making claims, which can aggravate existing health difficulties e.g. assist with form filling and supporting at appointments.</p> <p>Outcomes (to 31/3/19):</p> <ul style="list-style-type: none"> ○ Provided support to 51 resident s across a range of benefit issues
<p><i>Experience Counts</i></p> <p><i>'50 Plus project'</i></p> <p><i>15 months: 1/10/18 to 31/12/19</i></p> <p><i>Grant:£28,892</i></p>	<p>Aim - Skills and training programme for over 50s - unemployed /at risk of redundancy/ returning to work, to help with employment prospects e.g. work on self esteem, CVs, mock interviews. Will provide 6 X 6 week programmes (a 2.5 hour workshop per week with wraparound support). Each programme can take up to 10 participants</p> <p>Outcomes (to 1/2/19):</p> <ul style="list-style-type: none"> ○ Delivered 2 programmes as planned. ○ 17 participated, 2 found employment. Destination of attendees continues to be monitored.

<p><i>Changing Lives</i></p> <p><i>'Financial Inclusion and Pre-Employment'</i></p> <p>12 months: 1/11/18 to 30/10/19 (but extended to 31/12/19)</p> <p>Grant: £24,500</p>	<p>Aim: Work with clients across the Changing Lives service to improve ability to deal with and understand their financial situation and their access to financial products and services. Delivered through 1:1 appointments and weekly drop ins for clients. Support them to develop skills to avoid future crisis. Both 1:1 appointments and drop ins.</p> <p>Outcomes (to 11/2/19):</p> <ul style="list-style-type: none"> ○ 37 clients supported. <p>Note - Project on hold for two months from 20/3/19 to recruit new postholder, project end date extended by two months</p>
<p><i>York Advocacy</i></p> <p><i>'Advocacy Support-benefits and debt advice'</i></p> <p>12 mths: 1/12/18 – 31/11/19</p> <p>Grant: £15,587</p>	<p>Aim: Work one-to-one with people to access benefits /debt information / advice to help them make informed decisions, maximise their income and manage existing debts. Will help increase confidence and skills to reduce the risk of being in poverty in the future.</p> <p>Outcomes (to 28/2/19):</p> <ul style="list-style-type: none"> ○ 26 referrals (half one-off in nature, half on-going support) ○ 34% referred from Community MH services
<p><i>Peasholme Charity and York Foodbank</i></p> <p><i>'Community Advice Service'</i></p> <p>12 mths: 1/10/18 – 30/9/19 (but extended to 31/11/19)</p> <p>Grant: £9,484</p>	<p>Aim: Provide an Advice Worker at the food bank each weekday to deliver a Community-based advice and guidance drop-in service. Will build on the learning from previous partnership projects, both in York and nationally; aiming to reduce reliance on food bank provision. This will include referring repeat clients to mainstream support services, and signposting clients to appropriate service providers.</p> <p>Outcomes (to 31/3/19):</p> <ul style="list-style-type: none"> ○ 36 sessions provided ○ 47 people accessed support ○ 14 needed on-going support <p>Note: Project on hold for two months from March 2019 to recruit new postholder, project end date extended by two months</p>
<p><i>Citizens Advice York</i></p> <p><i>'GP Surgeries Advice Service'</i></p> <p>12 months: 1/7/18 to 30/6/19 but extended to 30/9/19</p> <p>Grant: £24,054 + £6,013 to extend to 30/9/19</p>	<p>Aim: The project delivers advice to clients and continues to develop co-ordinated advice services delivered within GP surgeries in York. Clients will be referred by GPs in the practises or via the CVS-run 'Ways to Wellbeing' project.</p> <p>Outcomes (to 31/3/19):</p> <ul style="list-style-type: none"> ○ Appointments at a number of locations through Priory Medical Group and York Medical Group with ○ 192 clients seen, 553 benefit issues ○ Increased income £297k (annualised)

<p><i>Citizens Advice York</i></p> <p><i>'Advice York Network'</i></p> <p>12 months 1/6/18 – 30/5/19 but extended to 30/9/19</p> <p>Grant: £10,390 + £3,463 to extend to 30/9/19</p>	<p>Aim: Provide a part time coordinator for the Advice York Network to deliver key priorities and objectives of the JRF funded review of the ongoing coordination and running of AY. Promote closer working of advice agencies in the city through meetings, directory, and service development fund raising.</p> <p>Outcomes (to 31/5/19):</p> <ul style="list-style-type: none"> ○ New regular e-bulletin for the sector produced ○ Refocused work plan and prioritised aims ○ Continues to make connections and links providing a platform for closer working.
<p><i>Citizens Advice York</i></p> <p><i>'Information & Budgeting Cafes'</i></p> <p>12 Months: 1/7/18 to 30/6/19 but extended to 30/9/19</p> <p>Grant: £38,452 + £9,613 to extend to 30/9/19</p>	<p>Aim: Building on the well-received 17/18 project and to continue presence (at Sanderson Court in Chapelfields, and Bell Farm) and to extend to two other venues (St. Luke's in Clifton and Travellers' Trust in Falsgrave Crescent). Will increase resident's financial capability through support with IT, signposting, finding useful information etc.</p> <p>Outcomes (to 31/3/19):</p> <ul style="list-style-type: none"> ○ Detailed advice given to 174 clients (others signposted) ○ £148.8k income gains for 223 residents
<p><i>Welfare Benefits Unit</i></p> <p><i>' Universal Credit Focus'</i></p> <p>12 months: 1/6/18 – 30/5/19 but extended to 30/9/19</p> <p>Grant: £10,908 + £3,636 to extend to 30/9/19</p>	<p>Aim: build on and continue to offer general and case-specific second-tier support to advisers dealing with issues from their clients about UC. It will offer in-depth advice to advisers as well as providing support with complex issues and challenging decisions. The project will use evidence of problems facing residents to bring issues to the attention of the DWP and other stakeholders.</p> <p>Outcomes (to 28/2/19)</p> <ul style="list-style-type: none"> ○ 106 UC queries on advice line ○ 5 briefing sessions for advisers delivered ○ email briefings ○ 6 detailed case support provided

40. As reported in November 2018 the number of residents directly helped by the 2017/18 projects exceeded 800 with 445 debts valued at £318k managed and £58k of increased income was recorded. So far the projects funded for 2018/19 have helped over 650 residents and achieved increased income of £446k. The nature and intensity of involvement with individual residents varies from project to project and is reflected in the outcomes noted and it is not possible to make straight comparisons between them. It should also be noted that projects have variable start and end dates.

41. Two projects have had some disruption caused by staffing changes which led to them being suspended or reduced for a period whilst replacement staff were recruited. Organisations say that the short term nature of the funding is a factor that contributed to staff turnover. To mitigate the overall impact the end dates of the projects have been extended appropriately within the existing funding.

42. A 'Project Exchange' session (for the project leads) was held in April 2019 which was very positive in raising mutual awareness of the wide range of support provided, making useful connections and links across providers promoting a more collaborative approach.

Other activities

43. Work continues to enable providers to work in a complementary and responsive manner with the expanding community based settings that the council has been helping to facilitate. The council actively encourages partners to become more visible in delivering their services locally and to work collaboratively with other providers, reflecting the way that the council itself is delivering its own services. For example several organisations provide support in a coordinated manner in various locations across the city and Ward Committees have bought in specific advice/support services for local delivery.
44. As a specific example the Credit Union has been involved in FISG for several years. It has rebranded itself as 'Community First Credit Union'. It has changed the way it deploys their staff and is now participating in more outreach work in other community locations in for example Tang Hall and Bell Farm

Area-Based Financial Inclusion - A targeted programme to support Inclusive Growth

45. Outside of the FISG funding stream, this is a £250k, initially two year multi agency project that supports people in Westfield and parts of Clifton, Guildhall, Heworth and Hull Road. It aims to increase financial resilience within these communities, with the guiding principles that project activities offer small steps, are delivered at a very local level and on a multi-agency basis. Originally due to end in March 2019 it was extended for a further 6 months until September 2019 within the existing funding allocation. A summer intern from the University of York has been secured to support the final evaluation and project report.
46. It focuses on a number of key strands: jobs & skills; business & enterprise; financial resilience and community capacity building³. The lead officer sits on FISG to ensure that work across the various strands is complementary and co-ordinated.
47. The project has had a strong focus on developing community hubs in partnership with local community organisations. These hubs all follow a similar core model but have developed approaches bespoke to the needs and capacity of the local communities. The core model is one of a weekly community led local session, with a food offer and a range of support services available on a drop in no appointment needed basis.

³ Separate reports on this project have been made to Executive and the Executive Member for Economic Development and Community Engagement.

Services involved in the hubs include Local Area Coordination, CYC Benefits and Adult Social Care Advice, Housing Management, York Learning, Citizens Advice York, Police, Health Watch, Health Champions, Wellbeing, South Yorkshire Credit Union. Local additions include activities such as arts and craft sessions and gardening.

48. Specific highlights include:

- Chapelfields Community Hub celebrates its second birthday at the end of June 2019 and has become an established feature of the local community calendar.
- Foxwood Community Hub has now been running for over a year and has been successfully supported to apply for funding which has in turn facilitated the commissioning of a coordinator for the Friday Community Hub. Foxwood Community hub has a strong working relationship with Action for Elders and the local Health Walk.
- Red Tower Community Hub is the youngest of the community hubs starting in October 2019. This followed a summer project to support local families combat 'Holiday Hunger'. This project has attracted a good number of volunteers and has proved very popular in the local area frequently attracting session numbers in excess of 60 people.
- Services were also directed to existing offers such as Bell Farm Community Club.
- Tang Hall Big Picnics were started in partnership with Tang Hall Big Local as a direct response to an identified local need, the high percentage of free school meals at local schools and the fact that a local pay as you feel cafe with a strong following did not operate in Tang Hall during the school holidays and for an extended period over the summer. From humble beginnings of a basic 'pay as you feel picnic' food offer over 6 weeks in 2018 the Big Picnics now operate during all of the school holidays and for an extended period from June to September. The offer is now a 3 course cooked meal - cooked by local people who have been trained by a chef and supported with skills development through York Learning and the 4CGY project. Tang Hall Big Local and Tang Hall Food Coop are now delivering a Friday morning healthy breakfast session alongside commissioned financial support services.
- 'Cooking on a Budget' courses have been delivered in Clifton, Haxby Road, Bell farm, Tang Hall and Chapelfields. These have been used to encourage healthy eating and as a gateway into other skills development opportunities.
- Hub sustainability and volunteer recruitment and development forms a big part of the final phase of the project. The commission with York Learning to provide community outreach was extended to support

this and to maximise the impact of the project in terms of skills and employability.

49. Following on from the success of two previous job fairs in the first ever Tang Hall Jobs Fair was held at the new Centre@Burnhome in May 2019. A further Acomb Jobs Fair has been sponsored by the project which will be held on the 6th November 2019 and delivered by York Learning. A total of 4 of Jobs fairs outside of the city centre will have been supported by the project.

Implementation of Scrutiny Review of Financial Inclusion Recommendations

50. During the previous administration, a scrutiny review was undertaken into Financial Inclusion in York with the aim of understanding the impact of Universal Credit on the city's citizens and the activities being run to promote Financial Inclusion. The recommendations of the review were accepted in full by the then Executive on March 18th 2019. A draft action plan for implementation of the recommendations has been produced and is shown at annex 3. Executive Members are asked to approve the content of the plan, and progress will be monitored by FISG and reported to Executive Members every 6 months in the Interim and Annual Reports on Financial Inclusion and Welfare Benefits Activities.

Consultation

51. In relation to welfare benefits changes and support, dialogue is ongoing between all the council's third sector partners including CAY, WBU & AY. There is also consultation with the DWP regional contact in terms of any changes to UC process, claimant numbers, assisted digital support and future migration. Council service managers involved in Financial Inclusion Steering Group in addition to Council Management Team (CMT) have been involved in the development of this report

Analysis

52. There is no further analysis other than the existing information provided in the report.

Council Plan

53. Outcomes achieved through the council and its third sector partners welfare benefit support contributed during 2018/19 to the then Council Plan commitment to achieve 'a prosperous city for all' including promoting financial inclusion by supporting the Living Wage, supporting voluntary organisations and developing financial inclusion work with measurable outcomes.

Options

54. The majority of the report is for noting. In relation to the approval of the action plan in annex 3, Executive members could choose to accept or reject some or all of the planned actions and ask officers to consider alternatives to take forward.

Implications

55. (a) **Financial** – The direct financial implications relate to the funding of both FISG bids and the YFAS scheme which are funded within approved budget allocations/reserves. Indirectly the ability and support required to ensure customers pay their council tax affects the overall council budget.
- (b) **Human Resources (HR)** - There are no implications
- (c) **One Planet/Equalities** – There are no direct implications
- (d) **Legal** – There are no implications
- (e) **Crime and Disorder** - There are no implications
- (f) **Information Technology (IT)** - There are no implications
- (g) **Property** - There are no implications

Risk Management

56. The key risks are in relation to YFAS & DHP and include:
- Managing the costs of the service (both service delivery and administration) within a fixed budget.
 - Managing the budget to ensure that customers get the same service irrespective of when they apply in the financial year.
 - Minimising opportunities for abuse, whilst ensuring that customers who need help can access scheme easily and quickly.
 - Any failure to provide an appropriate service will have a negative impact on the wellbeing of vulnerable people and the reputation of the council.
 - The council should not be complacent that UC will not have a severe impact on residents and should continue to monitor developments closely. The impacts in other local authorities have not been felt for 12 months following implementation of Full Service a period we are now approaching. There is anecdotal evidence from third sector organisations and the growing HRA debt hat indicates there could be a growing challenge around managing the impacts of UC.
57. These risks are managed through constant monitoring and review. The actual figures for YFAS & DHP are reported to each FISG meeting to allow early intervention.

Contact Details

Author:

Pauline Stuchfield
Assistant Director
Customer & Digital
Services
Tel No.01904 551706

David Walker
Head of Customer &
Exchequer Services
Tel: 01904 552261

John Madden
Strategic Manager
Corporate Strategy & City
Partnerships
Tel No.01904 551132

Susan Wood
Welfare Benefits &
Strategic Partnership
Manager
Tel No.01904 553564

Chief Officer Responsible for the report:

Ian Floyd - Deputy Chief Executive & Director
of Customer & Corporate Services



Date 4th July 2019

Report Approved

Specialist Implications Officer(s) *None*

Wards Affected: *List wards or tick box to indicate all*



All

Annexes:

Annex 1 Discretionary Housing Payment Summary 2018/19

Annex 2 YFAS applications 2018/19 and comparative data

Annex 3 Draft Action Plan to deliver the CSMC Financial Inclusion Scrutiny
Review Recommendations (March 2019)

Background Papers:

Welfare Benefits Update and Financial Inclusion Outturn Report 2017/18 –
June 2018:

<http://modgov.york.gov.uk/ieListDocuments.aspx?CId=740&MId=10806&Ver=4>

Welfare Benefits & Financial Inclusion Update – November 2018 –

<http://modgov.york.gov.uk/ieListDocuments.aspx?CId=740&MId=10812&Ver=4>

Financial Inclusion Scrutiny Review – March 2019:

- Customer & Corporate Services Scrutiny Management Committee
<http://modgov.york.gov.uk/ieListDocuments.aspx?CId=144&MId=10489&Ver=4>
- Executive:
<http://modgov.york.gov.uk/ieListDocuments.aspx?CId=733&MId=11469&Ver=4>

Recorded decisions on Awards under the ‘Improving Finances, Improving Lives’ grant scheme:

- 2018/19 Awards:
<http://modgov.york.gov.uk/ieDecisionDetails.aspx?ID=5217>
- Extension of 2018/19 Awards:
<http://modgov.york.gov.uk/ieDecisionDetails.aspx?ID=5434>

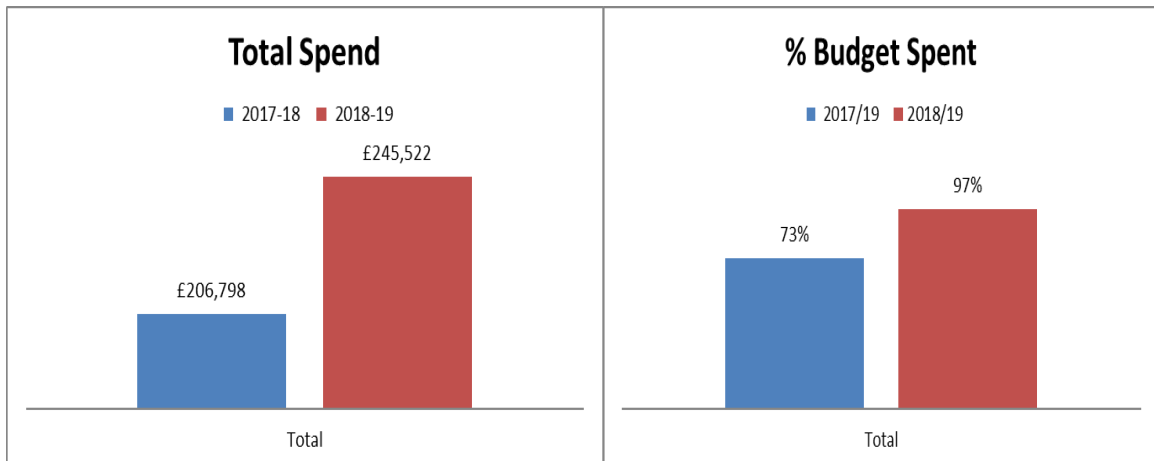
List of Abbreviations

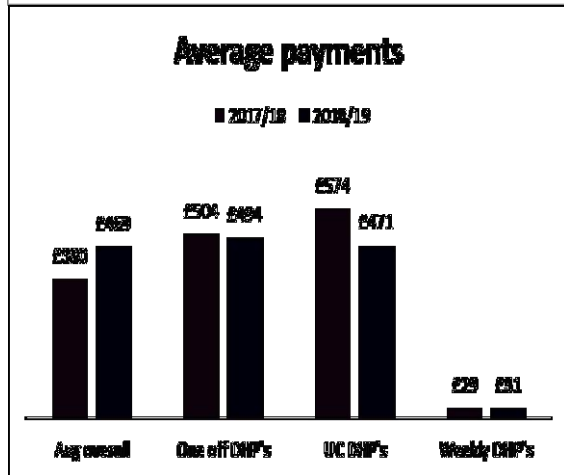
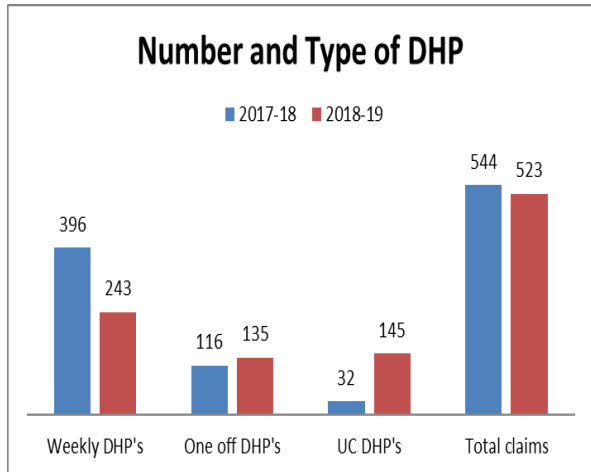
ADS	Assisted Digital Support
AY	Advice York
CAY	York Citizen’s Advice York
CMT	Council Management Team
CTS	Council Tax Support
CVS	Council for Voluntary Services
CYC	City of York Council
DHP	Discretionary Housing Payment
DWP	Department for Work and Pensions
FISG	Financial Inclusion Steering Group
HB	Housing Benefit
IT	Information Technology
k	Thousand
LHA	Local Housing Allowance
MH	Mental Health
PBS	Personal Budgeting Advices
UC	Universal Credit
YFAS	York Financial Assistance Scheme

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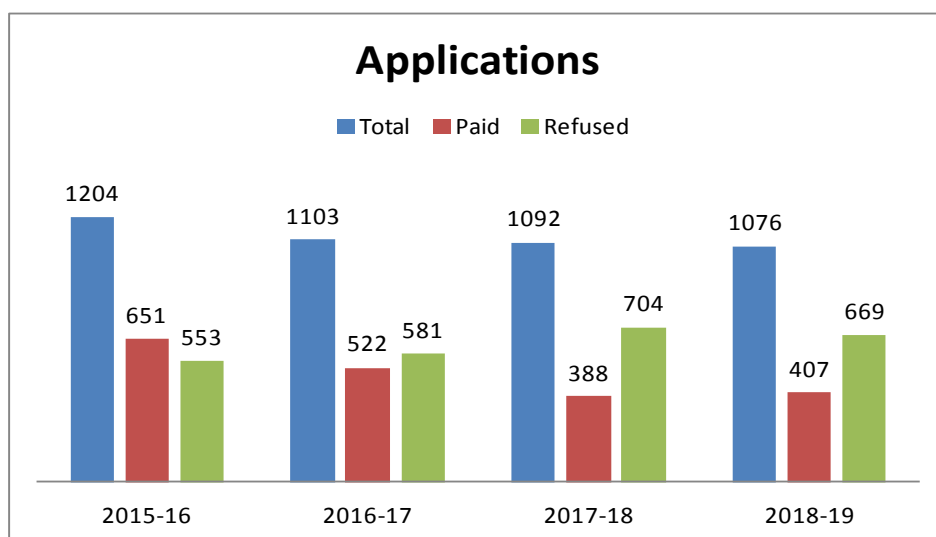
Discretionary Housing Payment Summary 2018/19

Total funding available includes £226,402 Central Government Funding for DHPs plus £27k CYC's own budget.





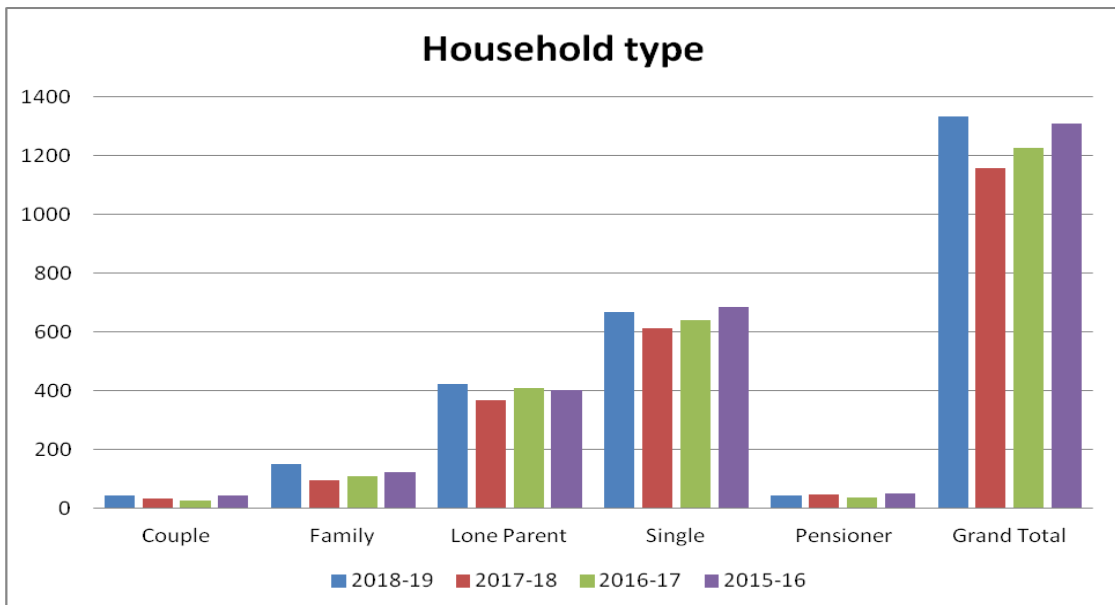
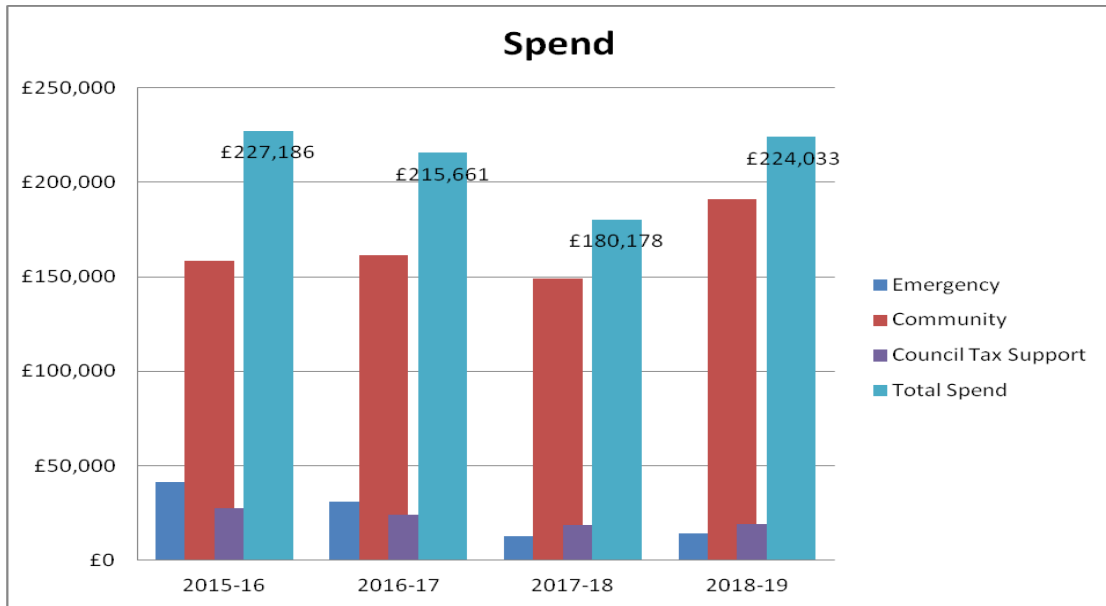
YFAS applications 2018/19 and comparative data



YFAS	2017-18	2018/19
Average award	£417	£504
Lowest award	£20	£23
Highest award	£1,931	£1,961

Council Tax Support	2017-18	2018/19
No. of applications considered*		583
No. of customers receiving awards	223	147
Average award	£83	£128

* From April 2018 the application form for DHP & CTS was combined. All application for are now considered for both DHP & CTS.



Action to Plan to deliver the CSMC Financial Inclusion Scrutiny Review Recommendations (March 2019)

No.	Recommendation	Responsibility	Date	July 2019 Update/Actions
i	A deeper scrutiny review into the causes of and responses to food poverty is considered, taking into account key elements of the York Food Poverty Alliance report	Head of Civic & Democratic Services /Chair of CSMC	March 2020	<p>10/6/19 Customer & Corporate Services Scrutiny Management Committee (CSMC)</p> <ul style="list-style-type: none"> • Received a Food Poverty Scrutiny Review Scoping Report • Agreed to add to Forward Plan for the Committee to refine the scope and form of the review.
ii	<p>A review and refresh of the 2012 Financial Inclusion Policy and associated Action Plan should be undertaken. This review should include, but not be limited to:</p> <ul style="list-style-type: none"> • consideration of the work of Advice York and the FISG • the impact of the roll-out of Universal Credit • measures to address food poverty and • support for digital inclusion. 	Assistant Director of Customer & Digital Services (AD C&DS)	March 2020	<p>As per FISG 26/5/19 a plan to be presented at the next FISG meeting to deliver the review /refresh of the Policy.</p> <p>Ongoing monitoring of the delivery of the plan by FISG, including joint Executive members.</p>

No.	Recommendation	Responsibility	Date	July 2019 Update/Actions
iii	Consider broadening the membership of the Financial Inclusion Steering Group to include organisations such as the Welfare Benefits Unit.	Director of Customer & Corporate Services (Chair of FISG)	September 2019	As per FISG 26/5/19 - to invite Welfare Benefits Unit and Joseph Rowntree Foundation to future meetings. Other possibilities will be subject to discussion with relevant organisations.
iv	Investigate options for securing long-term funding support for successful time-limited FISG grant funded schemes, such as the Citizens Advice York GP Surgeries Advice Scheme;	Director of Customer & Corporate Services/AD C&DS	March 2020	To include, where there is a business case in Service Level Agreement negotiations, annual budget discussions and necessary councillor approvals.
v	Continue to monitor the impact of Universal Credit in York and agree that future six-monthly reports on Financial Inclusion are considered by the Executive rather than the Executive Member	AD C&DS	Complete	Implemented as per Executive Report 18th July 2019
vi	Commission the FISG to examine the current provision of digital and IT services available for benefit claimants at West Offices and other publicly-accessible buildings to ensure these facilities are accessible for all who need them	AD C&DS	March 2020 Ongoing	To incorporate into Digital Inclusion work as part of the new Financial Inclusion Strategy and Work Plan To monitor at every meeting of Financial Inclusion Steering Group (FISG)

No.	Recommendation	Responsibility	Date	July 2019 Update/Actions
vii	Ensure the language and terminology on CYC forms used for requesting financial assistance is easily understood and adequately conveys the necessary information to people who may have difficulties filling in these forms	Head of Customer & Exchequer Services	Ongoing	To monitor at every meeting of FISG
viii	Seek out and learn from best practice elsewhere on how best to engage with 'hard to reach' groups who may not necessarily be comfortable reaching out to statutory bodies when they need advice or support;	Members of FISG	Ongoing	<p>Work already done includes working with Leeds City Region and looking at other councils approaches eg Gateshead around debt management.</p> <p>Also looking at option of engaging with third sector body to assist with Digital Inclusion review. Will include learning from the experience of other bodies.</p> <p>To include in 6 monthly Financial Inclusion Report to Executive.</p>
ix	Raise awareness within Council directorates of the impact that their policies and actions can have on more vulnerable members of the community, and encourage more cross council and cross-partner engagement	See item iii	See item iii	To broaden the membership of FISG to ensure key council services are represented and develop and deliver the new Financial Inclusion Strategy.

No.	Recommendation	Responsibility	Date	July 2019 Update/Actions
x	Ensure that after May 2019 all new and existing Members have comprehensive training around Financial Inclusion so they have a full understanding of the role of the council and its partners.	Head of Civic & Democratic Services	March 2020	Scheduled as part of member training programme.



Executive**18 July 2019**

Report of the Corporate Director of Economy and Place

Portfolio of the Executive Member for Transport

Public Rights of Way – Review of Definitive Map Processes and impact of imminent implementation of the Deregulation Act 2015**Summary**

1. In 2018 a local resident complained to the Local Government Ombudsman about the length of time it was taking to process his definitive map modification order application. This complaint has led to the Definitive Map service accelerating the processing of definitive map modification order applications. This report sets out proposals that will accelerate the process further.
2. Nevertheless, processing definitive map modification order applications remains a complex statutory duty of the council. The requirements set out by the legislation mean that resolving applications is necessarily time consuming. Therefore, in common with other highway authorities, resolving all the matters raised by the Local Government Ombudsman will take a number of years.
3. The Local Government Ombudsman has found that the council is at fault in regards to the time taken to determine a definitive map modification order.
4. The Local Government Ombudsman's decision requires that the council:
 - a. Within 1 calendar month of the completion of a review of the Definitive Map service, seek authorisation from the Executive for the changes required as a consequence of that review (*the purpose of this report*).
 - b. Within 2 weeks of the Executive decision detailed at para(a) above write to the complainant and all other definitive map modification order applicants advising them of the Executive decision and detailing the time frame within which the council expects to be able to decide their applications.

- c. Send copies of all correspondence, reports, and decisions to the Local Government Ombudsman. In addition, a report is to be sent to the Local Government Ombudsman advising them of the progress the council is making towards eliminating its definitive map modification order backlog. These reports are to be sent every 6 months for a period of 2 years.

A copy of the Local Government Ombudsman's decision can be found at annex 1 of this report.

Recommendations

5. The Executive is asked to consider the finding of the review and:

Review of the Statement of Priorities

6. Support the findings of the review and adopt the revised Statement of Priorities (see annex 6) including the requirement to ensure that any direction from the Secretary of State at Defra (SOS) will be dealt within either 3 months or 12 months according to the type of direction received.

Review of the definitive map process

7. Members to consider authorising a change to the current scheme of delegation 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 and affected ward councillors and;
8. A report considering the progress of reducing the backlog of definitive map modification order applications to be presented to the Executive Member every 6 months – copy to be sent to the Local Government Ombudsman.

Review of staffing levels and budget

9. Develop an apprentice/trainee role for rights of way to initially focus on definitive map modification order applications to be considered in the 2020/21 financial year budget setting by full Council. the cost of which is £25,000 and which needs to be incorporated as unavoidable growth in the 2020/21 budget process.

10. To keep further resources under review to ensure we deliver on our 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 available resources.
- 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 the statutory escalation process to the Secretary of State results in resolution.

Background

11. The background information relating to the review of the Statement of Priorities can be found at annex 3.
12. The background information relating to the review of the Definitive Map process can be found at annex 2.
13. The background information relating to the review of staffing levels and the budget can be found at annex 4.

Consultation

14. The review relates to the internal processes the council uses to meet its statutory obligations. As such, no public consultation is required.

Options

15. Options are given across the 3 key areas covered by this review (*statement of priorities, definitive map process, staffing levels and budget*).
16. Review of the Statement of Priorities
 - a. *Statement of Priorities Option 1*: Support the findings of the review (annex 4) and adopt the revised Statement of Priorities (see annex 6) including the requirement to ensure that any direction from the SoS will be dealt with by officers within

either 3 months or 12 months according to the type of direction received. This is a recommended option

- b. *Statement of Priorities Option 2*: Take note of the review of the Statement of Priorities and retain the existing Statement of Priorities. This is not a recommended option

17. Review of the definitive map process

- a. *Definitive Map Option 1*: Support the findings of the review and consider authorising a change to the current scheme of delegation so that definitive map modification order applications making changes to the Definitive Map and Statement (definitive map and statement) are determined by an Assistant Director or more senior officer with responsibility for the Rights of Way team in consultation with the Executive Member and affected ward councillors; members need to consider the benefits gained in time with the delegation of such an issue. A and B are the recommended options.
- b. *Definitive Map Option 2*: A report considering the progress on reducing the backlog of definitive map modification order applications to be presented to the Executive Member every 6 months – a copy to be sent to the Local Government Ombudsman. A and B are the recommended options.
- c. *Definitive Map Option 3*: Take note of the review of the council's definitive map processes and retain the current system i.e. all definitive map modification order applications continue to be determined by the Executive Member for Transport and Planning at decision session, except those where the determination has been made by the Secretary of State. This is not a recommended option.

18. Review of resources - staffing levels and budgets

- a. Review of Resources Option 1: Develop an apprentice/trainee role for rights of way with a budget for the work involved initially concentrating on definitive map modification order applications commencing in April 2020, to be considered as part of the budget setting process for 2020/21 by Full Council. This is a recommended option.
- b. Review of Resources Option 2: Keep further resources under review to ensure the commitment to resolve cases reviewed by the Secretary of State can be achieved. This is a recommended option.

- c. Review of Resources Option 3: Take note of the review of staffing levels and budgets but not authorise any changes. This is not the recommended option.

Analysis

19. The findings of the review of the Statement of Priorities (SoP) are that items set out by the current SoP are, in many cases, complete. This has resulted in a SoP that focussed efforts on administrative functions that, whilst legally necessary, do not deal with issues that the residents of York care about.
20. Furthermore, the imminent introduction of the Deregulation Act 2015 and the 2026 cut off date for certain types of application mean that demands on the Definitive Map service will only increase over the foreseeable future. The current SoP was written under a very different legislative regime.
21. By adopting the revised Statement of Priorities (RSoP) the Definitive Map service will concentrate on matters that directly affect the residents of York and the demands placed on the council by the legislation.
22. The full analysis of the review of the Statement of Priorities can be found at annex 3.
23. The findings of the review of the Definitive Map process are that because it is a legal process even straightforward definitive map modification order applications take around 1 year to complete. Where an application attracts vociferous or complex objections this time is significantly extended.
24. As a consequence is extremely difficult to predict what resources will be required. Hence keeping the Definitive Map service under review will allow the council to respond to any additional demands that are made.
25. The review identified that most of the time taken to process a definitive map modification order from start to finish is outside the council's control. One area under the council's control is the timescale for adding items to the Forward Plan. The delays stemming from the need to follow the current scheme of report writing and presentation can add between 6 and 8 weeks to the process.
26. By making the determination of definitive map modification order applications a delegated responsibility of a specified senior officer in

consultation with the Executive Member and ward councillors this delay can be significantly reduced.

27. The full analysis of the review of the Definitive Map process can be found at annex 2.
28. The findings of the review of staffing levels and budget are, necessarily, somewhat dependant on the actions taken in regard to the Definitive Map process and SoP.
29. That notwithstanding, in order to address the matters raised by the Local Government Ombudsman, additional staff resources is the key to accelerating the work programme.
30. Given the difficulty of attracting experienced definitive map officers this may be an ideal role for considering an apprenticeship post.
31. Making accurate predictions about future budgetary requirements is difficult at this stage. Keeping the situation under review will allow the council to alter budget allocations when the need arises.
32. The review of the staffing levels and budgets can be found at annex 4

Council Plan

30. As set out in the Council Plan 2015-19: One of our key priorities is to be *'a council that listens to residents to ensure it delivers the services they want and works in partnership with local communities'*.
31. The aims of this priority are to:
 - Focus on the delivery of frontline services for residents and the protection of community facilities
 - Focus on cost and efficiency to make the right decisions in a challenging financial environment
32. To do this we will ensure:
 - We always consider the impact of our decisions, including in relations to health, communities and equalities
 - Use of evidence based decision making;
33. In the next 4 years we will:

- Promote a new model of governance, with the Executive to replace the cabinet and a new cross party scrutiny and policy committee approach;
- Implement the outcomes of our new governance, transparency and public engagement
- Promote mutual respect between officers and Members with clearly defined roles for each;
- Build the culture we need and attract, retain and develop colleagues.

34. The approval of the recommended options will contribute to the above aims and 4 year work programme.

Implications

- **Financial:** The cost of an apprenticeship/trainee post is £25,000 and requires inclusion as growth in the annual budget process for future years and subject to decision making by Full Council. There is the possibility of additional compensation to be paid to definitive map modification order applicants should further complaints be made to the Local Government Ombudsman, or a finding of maladministration may lead to the council being fined by the Local Government Ombudsman. These would need to be identified if and when they occur and addresses through the financial monitoring process.
- **Human Resources (HR):** Should Resources Option 1 be approved an additional Rights of Way assistant/trainee would be added to the establishment
- **One Planet Council / Equalities:** There are no known Equalities Implications.
- **Legal:** The Council has a statutory duty to process applications for a DMMO. There is a set statutory process under the provisions of the Wildlife and Countryside Act 1981 which the Council has to follow before the Definitive Map can be altered. These involve both the making of a definitive map modification order and then the confirmation of that Order. A definitive map modification order only takes effect when it is confirmed. When it is made, it shows that it is intended to add a path to the

Definitive Map and invites objections and representations in relation to the existence or non-existence of that path.

The Council is required, as soon as reasonably practicable after receipt of applications, to investigate and determine whether or not to make the Order sought. If after 12 months no such determination has been made, the applicant may appeal to the Secretary of State who may then direct the Council to determine the application and may impose a timescale for doing so.

The Countryside and Rights of Way Act 2000 provides for a cut-off date of 1st January 2026 for recording certain rights of way.

The Deregulation Act of 2015 made a number of changes to rights of way legislation. Once these amendments are brought into force, there will be a 'basic evidential test' for new applications but also a new appeals process via the Magistrates' Court for applicants and affected landowners should the Council fail to make a decision within the timeframe specified by legislation.

- **Crime and Disorder:** There are no known Crime and Disorder implications
- **Information Technology (IT):** There are no known IT implications
- **Property:** There are no known Property implications
- **Other:** There are no known Other implications

Risk Management

35. Leaving the scheme of delegation in respect of determining definitive map modification order applications; the statement of priorities; staff levels and budgets etc at their current level will not comply with the required actions of the Local Government Ombudsman and most likely result in a finding of Maladministration, causing severe reputational damage to the council.

Contact Details

Author:

Chief Officer Responsible for the report:

Author's name:

Alison Newbould

Chief Officer's name

Neil Ferris

Title:

Rights of Way Officer

Title

Corporate Director of Economy and Place

Dept Name

Transport Service

Report

Date 5 July 2019

Approved

Tel No.

01904 551481

Specialist Implications Officer(s) List information for all

Implication - Financial

Implication - Legal

Name: Jayne Close

Name: Sandra Branigan

Title: Accountant

Title: Senior Solicitor

Tel No: ext 4175

Tel No: ext 1040

Wards Affected:

All

For further information please contact the author of the report

Background Papers:

None

Annexes

Annex 1: Decision of Local Government Ombudsman

Annex 2: Review of the Definitive Map process

Annex 3: Review of the Statement of Priorities

Annex 4: Review of staffing levels and budgets

Annex 5: Current Statement of Priorities

Annex 6: Revised Statement of Priorities

List of Abbreviations Used in this Report and Annexes

BHS – British Horse Society

CROW Act – Countryside and Rights of Way Act 2000

DEFRA – Department of Food and Rural Affairs

Dereg Act – Deregulation Act 2015

DMO – Definitive Map Officer

DMMO– Definitive Map Modification Order

definitive map and statement - Definitive Map and Statement

FCB – Former County Borough of York

Local Government Ombudsman – Local Government Ombudsman

PA – Preliminary Assessment

PRoW – Public Rights of Way

RSoP - Revised Statement of Priorities

RUPPs – Roads used as Public Paths

SoP – Statement of Priorities

SoS – Secretary of State

9 May 2019

Complaint reference:
18 010 841

Complaint against:
City of York Council

The Ombudsman's final decision

Summary: There was fault in the time it was taking the Council to make an order on Mr X's application to change the rights of way map. The Council agreed to apologise to Mr X and pay him £250 in recognition of the avoidable distress and uncertainty caused by its delay. The Council also agreed to review its rights of way of service with the aim of reducing its backlog of applications.

The complaint

1. Mr X complains about the Council's unreasonable delay in complying with the Secretary of State's direction to make a definitive map modification order (DMMO) on his application for a public right of way. Mr X says the Council's failure to act prevents him from using a path he believes to be a public right of way. Mr X wants the Council to make the order so legal steps will follow and a final decision made about the status of the path. Mr X also wants the Council to review how it handles DMMO applications and clear its order making backlog.

What I have investigated

2. Mr X applied to the Council for a DDMO several years before bringing his complaint to the Ombudsman. However, Mr X came to the Ombudsman within 12 months of finding his application was at the bottom of the Council's waiting list for public rights of way orders. Mr X's complaint is not therefore a 'late complaint' (see paragraph 4 of this statement). To properly consider Mr X's position on coming to the Ombudsman, I have used my discretion to take account of key events since he first applied to the Council for a DMMO.

The Ombudsman's role and powers

3. We investigate complaints about 'maladministration' and 'service failure'. In this statement, I have used the word fault to refer to these. We must also consider whether any fault has had an adverse impact on the person making the complaint. I refer to this as 'injustice'. If there has been fault which has caused an injustice, we may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1), as amended*)
4. We cannot investigate late complaints unless we decide there are good reasons. Late complaints are when someone takes more than 12 months to complain to us about something a council has done. (*Local Government Act 1974, sections 26B and 34D, as amended*)

5. We may investigate matters coming to our attention during an investigation, if we consider that a member of the public who has not complained may have suffered an injustice as a result. (*Local Government Act 1974, section 26D and 34E, as amended*)
6. If we are satisfied with a council's actions or proposed actions, we can complete our investigation and issue a decision statement. (*Local Government Act 1974, section 30(1B) and 34H(i), as amended*)

How I considered this complaint

7. I have:
 - considered Mr X's written complaint and supporting papers;
 - talked to Mr X about the complaint;
 - asked for and considered the Council's comments on the complaint;
 - shared the Council's comments with Mr X; and
 - shared a draft of this statement with Mr X and the Council and considered their responses.

What I found

What should happen

8. Councils must prepare and keep up-to-date 'definitive maps and statements' to show public rights of way (PROW) in their area. Examples of PROWs are footpaths and bridleways.
9. The law sets out how people may apply to their council for a definitive map modification order (DMMO) to have a public right of way recorded on the definitive map. Once the council has a properly made DMMO application, it should "as soon as reasonably practicable" decide whether to make an order. A decision to make an order needs evidence a right of way exists or is reasonably alleged to exist.
10. If 12 months passes without a decision, the applicant may ask the Secretary of State to direct the council to decide the application. The Secretary of State's direction may include a deadline for the council to make its decision. The Government's current Rights of Way Circular 1/09 (Circular 1/09) says, at paragraph 4.9, when considering whether to make a direction with a deadline, the Secretary of State:

"...will take into account any statement by the [council] setting out its priorities for bringing and keeping the definitive map up to date, the reasonableness of such priorities, any actions already taken by the [council] or expressed intentions of further action on the application in question, the circumstances of the case and any views expressed by the applicant."
11. If a council decides not to make an order, the applicant has 28 days to appeal to the Secretary of State. On appeal, the Secretary of State will consider the evidence to decide if there is a case for making an order and, if so, direct the council to do so. The Secretary of State's direction may include a deadline for the council to make the order.
12. If a council makes an order, further legal steps follow, which may include the Secretary of State deciding whether to confirm the order if people have objected to it. A public inquiry may be necessary and people asked about their use of

claimed rights of way where there are inconsistencies in the evidence. (In practice, Planning Inspectors, independent of councils, usually act for the Secretary of State in dealing with DMMO applications, including issuing directions to councils.)

13. Circular 1/09, at paragraph 1.8 says, councils “should ensure that sufficient resources are devoted to meeting their statutory duties with regard to the protection and recording of public rights of way...”
14. The Council has a ‘Statement of Priorities’ dated 1999 for dealing with DMMO orders (‘the Statement’). The Statement says it will be reviewed each year and progress reported to the Council’s Transport Consultative Group. Mr X’s application is a ‘priority 4’ case under the Statement. The Council says its focus has been on priority 1 and 2 cases, which work is nearing completion. The Council has therefore recently started to consider priority 3 and two priority 4 cases. The Council says it is preparing a revised statement of priorities.

What happened

15. Mr X applied for a DMMO. Two years later, Mr X asked the Secretary of State to direct the Council to decide his application. An inspector, acting for the Secretary of State, took account of the Statement, which led the Council to suggest it would be at least 10 years before it could investigate the application. The inspector said it was appropriate for the Council to act in line with the Statement, however, the law said it should decide applications as soon as reasonably practicable. The inspector recognised the Council needed time to investigate Mr X’s application but considered 12 years unreasonable. The inspector directed the Council to decide Mr X’s application within 12 months.
16. Twenty-three months later, the Council wrote to Mr X refusing to make an order. Mr X appealed the decision within 28 days. An inspector, acting for the Secretary of State, found enough evidence to reasonably allege a right of existed along the route claimed by Mr X. The inspector directed the Council to make a DMMO on Mr X’s application but did not set a deadline making that order.
17. Hearing nothing further for nine months, Mr X contacted the Council. In the correspondence that followed, the Council referred to the Statement and that Mr X would need to wait while it dealt with higher DMMO priorities and applications received before his. Later, having completed the Council’s complaint procedure, Mr X came to the Ombudsman. Mr X said the Council was suggesting it would take 29 years before it could make an order on his application. Mr X said this was unacceptable and people supporting the application and able to give evidence, if necessary, at any public inquiry, might not be available in 29 years.
18. In responding to the Ombudsman, the Council’s position, in summary, is:
 - the law requires it to act as soon as reasonably practicable and it is not compelled to act by any timescale;
 - it is bound by the Statement, which provides transparency and equity for all;
 - it can’t disadvantage others and depart from the Statement just because Mr X had the time and tenacity to use his legal rights and seek directions from the Secretary of State;
 - “notwithstanding the direction from the Secretary of State to make the order, the Council does not believe that public rights exist...” over the route shown in Mr X’s application;

- it needs to make an order on Mr X's application to comply with the Secretary of State's direction and will do so once it has dealt with DMMO applications received before Mr X's;
- Mr X's comment about a 29 year wait "might be a little high but not excessively so";
- Mr X is correct about the adverse impact on people arising from its backlog of DMMO cases but, it works with its available staff and funds;
- it now publishes information on its website about DMMOs and will in future routinely tell applicants about the Statement;
- it recently recruited an officer to fill a vacancy in its rights of way team and will seek councillor approval to take urgent cases out of sequence; and
- it could recruit more officers but needs to weigh this against its finite resources and the other powers and duties it must fulfill.

Is there fault causing injustice

19. The Ombudsman has recently issued a Focus Report, 'Under Pressure'. The Report recognises councils face budget pressures and that delay caused by service request backlogs is a key theme in many of our investigations. The Report says the presence of delay does not necessarily mean there is fault by a council. Rather, we will consider whether the law requires councils to act in a set time; what steps a council has taken to explain what is happening and to anticipate and respond to increasing pressures. We will also consider the impact of delay on the complainant.
20. The key issue in Mr X's complaint is the time it is taking the Council to make an order on his DMMO application. The law does not set a time limit for councils to deal with DMMO applications but requires them to act 'as soon as reasonably practicable'. In this case, the only timescale for action referred to is 29 years, which the Council accepts is not an 'excessively high' estimate. The 29 years is additional to the years Mr X has already been waiting since making his application and following the Secretary of State's second direction to the Council.
21. The available evidence shows the Council's DMMO backlog is longstanding and not caused by budget pressures in recent years. However, budget pressures are likely to add to the Council's difficulties in reducing and addressing its DMMO backlog. I recognise the Council published its Statement. Circular 1/09 (and its predecessor, Circular 2/93) says the Secretary of State will consider such published statements, and the reasonableness of the published priorities, when deciding whether to issue a DMMO direction. And yet, such statements are but one consideration for the Secretary of State. I am concerned at the Council's seeming over reliance on its Statement especially when it has not been regularly reviewed and or DMMO progress considered by councillors. Such reliance does not show the Council is actively addressing its backlog.
22. In response to the Ombudsman, the Council says it has, within the last 12 months, published information about DMMO applications on its website. The Council also says it will send a copy of the Statement to future DMMO applicants. I welcome the steps the Council is now taking. And yet, I am concerned the Council has not acted much sooner to publicise information about DMMOs for its residents and potential applicants.
23. The Council also intends to keep under review, and be prepared to prioritise, urgent DMMO cases in exceptional circumstances. Again, I recognise the

Council's willingness to adopt this approach in future. However, I am concerned the Council appears to find it acceptable to work at a pace that means Mr X may wait 29 years before it makes an order on his application.

24. Applications for DMMOs often involve evidence given by local people about the use they have made of claimed rights of way. That evidence will be in written statements. Where an order is made and opposed, it is often necessary and helpful to ask people to clarify and or expand on what they have written. Similarly, if unresolved objections lead to a public inquiry, people may attend and describe their use of a claimed path to the inspector acting for the Secretary of State. As years pass, people move away, may die or become unable and or unwilling to take part in public inquiries. Here, Mr X says two local people that provided witness statements for his application have since died.
25. Overall, publishing the Statement and the Council's adherence to its priorities cannot justify a 29 year wait for dealing with Mr X's application. And, 29 years for the Council to make an order on that application cannot comply with the legal requirement to act 'as soon as reasonably practicable'. I find fault here.
26. The Secretary of State's report leading to the second direction on Mr X's application said there was enough evidence to support the claimed right of way. The report also said there was credible evidence from the landowner that conflicted with parts of the claimed right of way. The report found "a conflict of credible evidence" that required the Council to make an order. I cannot know but, on balance, once made, the order is likely to result in unresolved objections and further involvement by the Secretary of State. The ability to test the written evidence before an independent inspector is therefore likely to be of importance in deciding whether the order is confirmed. I therefore find the time the Council takes to make that order will have a direct and substantive impact on Mr X and his application. I find the fault identified at paragraph 25 causes Mr X significant injustice.
27. I further find that other DMMO applicants may be facing similar lengthy waits before the Council both investigates their claimed paths and, where appropriate, makes an order (see paragraph 5 of this statement).

Agreed action

28. To address the injustice caused to Mr X by the fault I have identified at paragraph 25, the Council agreed (within 28 days of this statement):
 - To write to Mr X to apologise for both its delay in making an order on his DMMO application and the frustration caused by its failure to provide a reasonable timescale for carrying out the Secretary of State's direction; and
 - to pay Mr X £250 in recognition of the avoidable distress caused by the delay and continuing uncertainty about the legal existence of the claimed right of way.
29. To address the wider injustice identified at paragraph 27, the Council agreed:
 - Within three calendar months of this statement, to start and finish a review of its DMMO service with the aim of reducing the DMMO backlog. (Such review could include consideration of current staffing levels, work practices, policies and procedures and how other local authorities have dealt with similar backlogs.)

- Within one calendar month of completing the review, to report the findings to councillors and seek approval for any changes required.
 - Within two weeks of councillors deciding what action to take:
 - To write to Mr X about the outcome of the review and the steps it will take; and
 - in the light of those changes, when it expects to be able to make the order on his DMMO application.
 - To write to other DMMO applicants updating them on any changes to the DMMO service and giving a time frame for investigating and deciding their applications.
30. The Council also agreed to send the Ombudsman:
- A copy of its apology and update letters to Mr X; report to councillors on the service review; written records of councillors' discussions and decision on the review; and letters to other DMMO applicants. (The copies to be sent to the Ombudsman when the originals are sent/available to Mr X, councillors and other DMMO applicants.)
 - Updates every six months on its progress in reducing its DMMO backlog. The six-monthly updates to continue for two years after the date of this statement.

Final decision

31. I completed my investigation, finding fault causing injustice, when the Council agreed the recommendations set out at paragraphs 28 to 30.

Investigator's decision on behalf of the Ombudsman

Annex 2: Review of Definitive Map processes

- A. The council's current definitive map process for an unopposed DMMO is set out in the table below.

Active Weeks	Activity
1-4	Initial consultation, research, site visit, write exec member report
5-14 (may be up to 3 weeks less depending on how we fall within the exec session timetable)	Present report to exec member, Draft order
15-16	Seal order, arrange advertising (this factors in delay caused by newspaper lead times, this will get worse if the Press becomes a weekly paper)
17-23	Formal consultation period
24-25	Confirm order, arrange advertising (this factors in delay caused by newspaper lead times, this will get worse if the Press becomes a weekly paper)
26-32	High court notice period
33	Close file and archive
Key	
	Controlled by the SoS or statutory period
	Period under CYC control

- B. The council's current definitive map process for an opposed DMMO that goes to a public inquiry is set out in the table below.

Active Weeks	Activity
1-4	Initial consultation, research, site visit, write exec member report
5-14 (may be up to 3 weeks less depending on how we fall within the exec session timetable)	Present report to exec member, Draft order
15-16	Seal order, arrange advertising (this factors in delay caused by newspaper lead times, this will get worse if the Press becomes a weekly paper)
17-23	Formal consultation period, begin writing the statement of case (assuming objection doesn't come in on the last day of the period)
24-25	Finalise statement of case, submit to PINS
?	Wait for PINS to issue a start date for the case
26-34	Submission of our statement of case in the timetable (we will have already done this but PINS don't seem to change

	the timetable accordingly)
35-39	Submission of everyone else's statement of case, we received the other statements of case
?	There is always a period of time between the submission of all statements of case and the beginning of the pre inquiry period during which we prepare our proof of evidence,
40-44	All parties submit proof of evidence, 4 weeks notice of the inquiry is issued
45	Inquiry
?	Wait for the inspector's decision
46-47	Assuming no further consultations needed, arrange advertising of outcome
48-54	High Court notice period
55	Close file and archive
Key	
	Controlled by the SoS or statutory period
	Period under CYC control

- C. As can be seen from the two tables above, resolving a DMMO application takes a considerable amount of time. As the tables make clear, most of the time taken is not under the control of the council. It is either mandated by statute or, in the case of opposed orders, is in the hands of the SoS.
- D. The longest period controlled by the council is the period between the end of the initial consultation and the report being presented at the Executive Member Decision Session. This adds between 7 and 10 weeks to the process depending on how the report falls within the decision session timetable.
- E. As the decision session process has the largest impact on how long it takes to resolve a DMMO that is under the council's control there is merit in considering exactly what the Executive Member is required to do.
- F. The Wildlife and Countryside Act 1981 section 53(2) places the duty on the council to:
- "As regards every definitive map and statement, the surveying authority shall—*
- (a) as soon as reasonably practicable after the commencement date, by order make such modifications to the map and statement as appear to them to be requisite in consequence of the occurrence, before that date, of any of the events specified in subsection (3); and*
- (b) as from that date, keep the map and statement under continuous review and as soon as reasonably practicable after the occurrence, on or after that date, of any of those events, by order make such*

modifications to the map and statement as appear to them to be requisite in consequence of the occurrence of that event.”

- G. DMMOs are the mechanism by which the council is required to “make such modifications ... as appear ... to be requisite.”
- H. Section 53(3) sets out the circumstances under which the council are required to make a DMMO and the evidential test that needs to be applied by the Executive Member.
- “The events referred to in subsection (2) are as follows—*
- (a) the coming into operation of any enactment or instrument, or any other event, whereby—*
 - (i) a highway shown or required to be shown in the map and statement has been authorised to be stopped up, diverted, widened or extended;*
 - (ii) a highway shown or required to be shown in the map and statement as a highway of a particular description has ceased to be a highway of that description; or*
 - (iii) a new right of way has been created over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path or a restricted byway;*
 - (b) the expiration, in relation to any way in the area to which the map relates, of any period such that the enjoyment by the public of the way during that period raises a presumption that the way has been dedicated as a public path or restricted byway;*
 - (c) the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows—*
 - (i) that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path, a restricted byway or, subject to section 54A, a byway open to all traffic;*
 - (ii) that a highway shown in the map and statement as a highway of a particular description ought to be there shown as a highway of a different description; or*
 - (iii) that there is no public right of way over land shown in the map and statement as a highway of any description, or any other particulars contained in the map and statement require modification.”*
- I. As almost all DMMOs relate to ways that are alleged to carry public rights but are not recorded on the definitive map the most relevant subsection is 3(c)(i), as noted above. This sets out that the council is

required to make a DMMO if there is at least a “reasonable allegation” that a PRoW exists over the route shown in the application.

- J. Coming to terms with what any evidential test is can be difficult outside a specific case. Therefore it is reasonable to examine how the SoS applies the above test by looking at past appeals made by applicants when an authority has refused to make an order.
- K. It appears that the SoS will always direct an authority to make a DMMO if there is any suggestion that the public might have a right of way over the route in question and there is no legally certain evidence that public rights cannot exist, for example extinguishment of public rights by legal order.
- L. Consequently almost all DMMO applications will result in a DMMO being made. The evidential test that the legislation asks councils to apply means the system has, to use an analogy, the engine of a Ferrari and the brakes of a pedal cycle. This means that making a DMMO is the default position the council should realistically adopt in almost all cases.
- M. Furthermore, the legislation only allows the council and the SoS to consider evidence relating to whether or not the route shown in the application is a PRoW. Matters concerned with convenience, desirability, security or anything else relating to the way cannot be considered. All of which means that when the Executive Member is asked to make a decision on a DMMO application they are acting in a quasi-judicial capacity and the legal scope they act within is extremely constrained.
- N. Once the Executive Member has made a decision on a DMMO application, i.e. determined the application, the process is largely controlled by either the legislation or the SoS.
- O. It is open to the Executive to decide whether or not to retain the current system and require each DMMO application to be presented to the relevant Executive Member.
- P. How other council’s have reduced their DMMO backlog: Contacting other councils around the country shows that almost every council we have contacted has a backlog of undetermined DMMO applications.

- Q. One of the few councils that appears to have no backlog of undetermined DMMOs is Northumberland County Council. This has been achieved by focussing on DMMO work and using prioritisation tools. The proposed revised Statement of Priorities would function in a similar way to these prioritisation tools.
- R. In addition, many of the DMMOs Northumberland County Council made related to resolving the status of unsurfaced, unclassified roads recorded on the list of streets. This work is somewhat similar to the work on determining the R.U.P.P.s the City of York Council did over a decade ago.
- S. The ultimate aim is to balance the need to speed up the processing of DMMO applications (to avoid a finding of maladministration from the LGO), against the oversight of democratically elected Members.
- T. As set out above, the delay in processing DMMO applications caused by the need to present each application to the Executive Member for a decision is the longest one that the council has any control over. By making the determining of DMMO applications a power that is fully delegated to a specified senior officer with responsibility for the Rights of Way team, the process will be shortened by 7 to 10 weeks.
- U. The primary advantage of making this change is that it maximises the time rights of way officers have to deal with the DMMO backlog and will result in the council being compliant with the legislation in the shortest possible time.
- V. Elected members not involved in the decision making process will be also be free to express the views of the public they represent. It should be noted however that this will become a reactive role after a decision has been made, but the legislation puts in place a period of statutory consultation where anyone may make representations or raise objections if they so wish.
- W. In order to comply with the findings of the LGO, every six months a report detailing the situation for all the DMMO applications would be prepared for the Executive Member (a copy of which is required to be sent on to the LGO). This would allow them to monitor the progress of the Rights of Way team in eliminating the DMMO backlog and act if there were any delays or other problems slowing down the rate at which DMMO applications were resolved. This report would also include budget updates thereby keeping Members abreast of the amount spent

by the council on resolving DMMO applications. It should be noted however, that as resolving DMMOs is a statutory duty this is a matter of ensuring best value for the council. There is no scope to avoid incurring the costs relating to DMMO applications. The senior officer may be better placed to ensure the council obtains best value in this respect.

- X. It is recommended that the Executive Member still determine any DMMO applications that seek to remove recorded public rights either by deleting a way or downgrading its status. This is because the legal test for such DMMO applications is a stronger 'on balance of probabilities' rather than 'reasonably alleged' and so needs greater scrutiny.
- Y. The main disadvantage of this change is that it will not speed up DMMO applications such as these. However, DMMO applications that seek to reduce or remove public rights are uncommon. There are none currently waiting to be determined and since 1996 there has been only one application to downgrade the status of a bridleway and only one application to delete a footpath from the DM&S. Bearing in mind the above it is thought that the capacity for such applications to delay progress on clearing the backlog of DMMO applications to add paths to the DM&S is limited.
- Z. As the majority of DMMO applications seek to record previously unrecorded PRow, the advantage of this option is that the council is seen to be speeding up those DMMO applications that increase public access whilst retaining democratic oversight of those applications that seek to reduce or remove public access.
- AA. Decisions made by the senior officer would be subject to the usual scheme of councillor oversight whereby they can be called in. It could be argued that the DMMO for a DMMO application that the senior officer determines should not be made until after the councillor call in period has expired. However, as the goal of this review is to speed up the processing of DMMO applications, it would be counterproductive to introduce delay before making a DMMO just in case Members want to call in the senior officer's decision. Following an order being made there is a period statutory consultation during which objections or representations may be received, so councillors rights are protected in this way.
- BB. If the current process for determining definitive map applications is not made faster it will take years to clear the existing backlog of DMMO

applications. Applications will continue to be received and the backlog will not be dealt with.

CC. The LGO considers that the current timescale to clear the backlog is not acceptable and requires the council to take action to ensure that DMMO applications are dealt with in a more timely manner. Failure to demonstrate this may result in a full finding of maladministration against the council.

DD. In the light of the foregoing the options before the Executive are:

- i. DM Option 1: Support the findings of the review and consider authorising a change to the current scheme of delegation so that DMMO applications that make changes to the Definitive Map and Statement (DM&S) may be determined by a senior officer with responsibility for the Rights of Way team in consultation with the Executive Member and affected ward councillors and;
- ii. DM Option 2: A report considering the progress on reducing the backlog of DMMO applications to be presented to the Executive Member every 6 months - copy to be sent to the LGO.
- iii. DM Option 3: Take note of the review of the council's definitive map processes and retain the current system i.e. all DMMO applications continue to be determined by the Executive Member for Transport and Planning at decision

EE. DM Option 1 and Option 2 are the recommended options.

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Annex 3 – Review of the Statement of Priorities

- A. City of York Council, as surveying authority for the DM&S, has a statutory duty to keep it under continuous review and make modifications as required. One of the elements of this work is to process duly made DMMO applications. The purpose of DMMOs is not to create new PRoW, rather it is the way errors on the DM&S are corrected. Errors can include PRoW that are not recorded on the DM&S or PRoW that are wrongly recorded. This is a very complex process and frequently contentious and the Council is duty bound to investigate applications in accordance with the law, following the relevant legal tests.
- B. The task of bringing the DM&S up to date was recognised by the Secretary of State for DEFRA (SoS) as being a considerable one and so recommends that surveying authorities periodically publish a SoP for bringing and keeping the definitive map up to date. This includes dealing with DMMO applications (DEFRA Circular 1/09, para 4.7).
- C. When the authority came into being after Local Government Reorganisation in 1996 it inherited a large backlog of definitive map work from North Yorkshire County Council. Some records were 40 years out of date and undetermined DMMO applications dated back to 1971. Additionally there was no DM&S for the former County Borough of York (FCB), even though it had been a statutory requirement to produce one since the implementation of the Wildlife and Countryside Act 1981.
- D. In order to provide a structured work plan to deal with this backlog the Council's SoP was approved by the Planning & Transport Committee on 27 August 1998. Following a review on 14 October 1999 (see annex 5) approval was given to take SoP para 5 (*the investigation, and reclassification if required, of R.U.P.s reclassified under the Countryside Act 1968*) and SoP para 8 (*the updating, and production of individual Definitive Statements for every path, including modifications to take into account the authorised addition/removal of stiles, gates and other physical features*) out of turn. At the same time approval was given to defer all work on DMMO applications, other than those already in progress.
- E. At the time and until 2009 the council did not have a definitive map officer (DMO) in post and work on updating the DM&S was only carried out on an ad hoc basis when resources allowed. That notwithstanding,

additional funding allowed for the employment of a consultant to complete work on SoP para 5 (reclassification of RUPPs) along with work on other smaller projects.

- F. Following the Countryside and Rights of Way Act 2000 (CROW Act) the SoP was looked at again but not formally reviewed as the priorities essentially remained the same and resources were such that any additional work could not be accommodated. The post of DMO was eventually created in 2009 and the main priority continued to be the compilation of the DM&S for the FCB (SoP para 2), whilst still working towards the completion of SoP para 1. This has been a large amount of work involving the investigation of over 200 paths and the making of 16 orders that sought to record 114 paths on the DM&S. To enable the project to be completed an intern is due to be employed in June to identify any paths that have been missed so that the DM&S for the FCB can finally be published.
- G. As resources have been concentrated on SoP paras 1 and 2 and those areas of work previously taken out of turn, other work detailed on the SoP has necessarily not been undertaken, especially with regard to the deferred DMMO applications work (SoP para 4). These applications have built up as new applications are received. That notwithstanding, the near completion of SoP paras 1 & 2 have allowed work that falls under SoP para 4 to be started with 3 applications now under investigation and 3 opposed DMMOs having already been submitted to the secretary of state.
- H. The current SoP stipulates that DMMO applications are dealt with in order of receipt, with a limited discretion to give certain applications priority (SoP para 4b). The highest priority is currently given to those applications that were received prior to 1996 (SoP para 4a).
- I. Under the Wildlife and Countryside Act 1981 an applicant may lodge an appeal with the secretary of state for any application that has not been determined by the council within 12 months of it being duly made. If the appeal is upheld the secretary of state will issue a direction for the authority to determine the application within a specified time (usually between 6 and 12 months). To determine an application means to decide whether or not to make an order to modify the DM&S. It does not include the actual making and advertising of the order.
- J. To date 2 applications submitted to the council have been subject to such an appeal, with at least another 2 appeals known to be imminent.

Answering such appeals involves a considerable amount of paperwork being prepared for the secretary of state (approximately the same as preparing an opposed order for submission to the SoS). Answering appeals causes further delays in the investigation of the other DMMOs.

- K. Across SoP para 4a - c there are currently 18 DMMO applications outstanding. This means that those DMMO applications currently at the bottom of the list (SoP para 4c) are likely to take 14 years to be processed.
- L. As well as the current backlog, the CROW Act introduced a cut off date for the recording of PRow based solely on historical evidence. The cut off date is 2026 and it is reasonable to expect an increase in the number of applications being made in the run up to 2026, especially given that the British Horse Society (BHS), the Ramblers and the Open Spaces Society are actively encouraging their members to submit DMMO applications; the BHS having also secured funding to pay members £100 per application.
- M. Furthermore the Deregulation Act 2015, which is expected to be implemented during the next 12 months, has the effect of reducing the time the Council has to determine DMMO applications from 12 months to 3 months and will shift work currently done by the applicant on to council. This is also likely to increase the number of DMMO applications received as DMMO applications become less onerous for the applicant.
- N. The current SoP was adopted by the council in 1999 and informally reviewed in 2004. As part of the conditions set out by the LGO for avoiding a finding of maladministration, the council is required to review the SoP. The existing SoP is attached to this report as Annex 2.
- O. The existing SoP placed the production of legal event modification orders as its first priority. These orders allow the production of revised and updated definitive maps. It is, however, a largely administrative function that has little impact on the public's perception of what is being done to protect their right to use unrecorded PRow across York.
- P. Second on the existing SoP was the production of a definitive map for the excluded area covered by the former City and County Borough of York (FCB). This is where most of the efforts of the team have been focussed.

- Q. As detailed in para F above, a large number of orders have been produced recording 114 previously unrecorded PRow on the definitive map. The team has already redirected resources to complete the survey tasks during the summer of 2019. This will place the council in a position to publish a definitive map for the FCB, drawing this paragraph of the SoP to a close.
- R. The third paragraph of the SoP dealt with the investigation of definitive map anomalies and lost ways. This project has also now been completed and can be removed from the SoP.
- S. Paragraph 5 of the SoP addressed the issue of roads used as public paths (RUPPs) and the legal requirement to classify them. This work has also now been completed meaning this paragraph can be removed from the SoP.
- T. Paragraph 4 of the SoP deals with the resolution of DMMO applications. It is in this area that the LGO is most keen to see changes.
- U. In light of the decision of the LGO and the completion of a great deal of the work set out by the current SoP, a proposed revised Statement of Priorities (RSoP) is attached to this report as annex 6.
- V. The aim of the RSoP is to emphasise the parts of the definitive map function that directly impact the lives of York residents, eliminate the backlog of undetermined DMMOs and to remove the focus on legally necessary administration that has little impact on residents.
- W. To ensure that dealing with DMMO applications in a way that complies with the legislation and delivers results to York residents in as timely manner as possible, a number of specific timescales are enshrined in the RSoP. This will bind current and future DMOs to specific, achievable timescales that will deliver the best possible service to the residents of York. In addition, the measurable timescales set out by the RSoP allow a greater degree of objective management oversight than is possible under the current SoP.
- X. Retaining the current SoP for definitive map work will continue to concentrate efforts on the legally necessary administration of the definitive map function that has little impact on residents. It is likely that this will result in the council being charged with full maladministration as work on the DMMO backlog will not be prioritised and no measurable timescales will be put in place to target workload.

Y. As a consequence of the above the following options are for the Executive's consideration:

- i. SoP Option 1: Support the findings of the review and adopt the revised Statement of Priorities (see annex 6) including the requirement to ensure that any direction from the SoS will be dealt within either 3 months or 12 months according to the type of direction received.
- ii. SoP Option 2: Take note of the review of the Statement of Priorities and retain the existing Statement of Priorities.

Z. SoP Option 1 is the recommended option.

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Annex 4 – Review of staffing levels and budgets

Review of Staffing levels

- A. The council currently has 1 DMO in post. Processing DMMO applications is a complex legal process which means there is a great deal of uncertainty about how long a specific DMMO application will take to complete. That being said, processing a DMMO can be divided into 3 broad phases of work, namely;
 - i. pre order investigation, consultation, and determination;
 - ii. making the DMMO and consultation with the public; and
 - iii. sending opposed DMMOs to the SoS.
- B. The legislation currently requires that the council carries out the first of these phases within 12 months of the application being duly made. The Deregulation Act 2015 (see para 81 below) will have the effect of reducing this period to 3 months, therefore putting additional pressure on the existing staff member.
- C. Working under the provisions of the current SoP the DMO may resolve between 1 and 2 applications each year. This means that the current backlog will be eliminated some time between 2028 and 2037 assuming no new applications are received.
- D. A DMO concentrating on the first phase of work can determine up to 26 applications per year (allowing 2 weeks to investigate, send out an informal consultation and respond to any queries raised). The determination of an application does not include the making of a DMMO or statutory consultation with the public. Although the current backlog of DMMO applications would be determined, the backlog would just be shifted back to the beginning of phase 2, which is the position of the DMMO application that led to the LGO complaint.
- E. A DMO concentrating on the above first two phases of work can process up to 10 applications per year. In this case the current backlog would be shifted back to the beginning of phase 3, leading to many if not all applications waiting to be submitted to the SoS.
- F. A DMO concentrating on all 3 phases of work can complete 3 DMMO applications per year (assuming all the DMMOs are opposed and are sent to the SoS).

- G. Note that the above involves the DMO only doing DMMO applications. None of the other duties (such as the FCB investigations, responding to planning applications, updating and producing definitive maps, making legal event modification orders and investigating queries over route alignments) will be done.
- H. Bearing the above information in mind, this means that with the current staff member focusing only on DMMO applications the current backlog can be eliminated by the end of 2025. This assumes that none of the cases are particularly complex or involve a large body of evidence and no further DMMO applications are received. In addition it assumes no further time consuming appeals for undetermined DMMOs are received, although it must be noted that the council will remain extremely vulnerable to such appeals until the backlog has been eliminated.
- I. Effects of the Deregulation Act 2015 and 2026 cut off on staffing levels:
The focus of this report is on the immediate risk that the LGO will make a finding of maladministration. However, the anticipated implementation of the Deregulation Act 2015 will also exert additional pressures on the council's definitive map function, especially in regard to staffing levels and should therefore be taken into account in any decision made.
- J. In addition to the reduction in time allowed to determine an application (from 12 months to 3 months) the Deregulation Act 2015 also introduces a new procedure to the DMMO application process called a preliminary assessment (PA). The PA requires the council to assess the application. If the council concludes that the application shows there is a reasonable basis for the applicant's belief that a PRoW exists then the council is required to serve notice of the application on all affected land owners and occupiers. The council does not hold details of landownership and so these would have to be researched and identified before notice is served, all of which adds to the pressure of meeting the 3 month timescale allowed for determining the application.
- K. Under the current system it is the applicant, not the council who is required to identify and serve such notice on all owners and occupiers of the affected land. The understandable desire on the part of the applicant not to upset land owners or occupiers who are often their neighbours frequently causes applications not to be sent to the council.
- L. Whilst the degree to which having to serve notice stops members of the public making DMMO applications is hard to quantify, it is possible to get some sense of it by examining the Rights of Way Team's records. The

team keeps records of enquiries made about potential DMMO applications. This can then be compared to the number of applications received to give a conversion rate.

- M. The conversion rate for DMMO enquires varies from year to year but is generally around 1 in 8. For every DMMO application the council receives, there will have been 8 enquiries.
- N. Whilst it is impossible to ascribe all the enquiries that went no further to the requirement to serve notice, it is reasonable to assume that the change in procedure will lead to more applications being made.
- O. At the moment any DMMO application received needs to meet or exceed the evidential test of a PRow being “reasonably alleged” to exist. The Deregulation Act removes this evidential standard meaning that when the Act comes into force, all applications must show that a PRow exists “in the balance of probabilities” before a DMMO is made.
- P. The combination of the increased burden of proof and increased number of applications (because the procedure is less onerous for the applicant) is inevitably going to lead to an increased number of applications being rejected.
- Q. Where an application is rejected, the council is required to set out its reasoning for the rejection. This means that DMMO application rejection notices are very similar to the reports the Executive Member receives at the moment. This will lead to officer time being needed to write these rejection notices (approximately 1 week per DMMO application rejection).
- R. In addition, when the council rejects an application after the PA is complete, the applicant has the right to appeal the rejection to the Magistrates’ Court. With more applications being made and more applications being rejected there is a danger that the council will be required to defend rejection decisions in court. This again will take up officer time.
- S. As indicated by the title of this section there is an additional complication facing the council’s definitive map function, this is the 2026 cut off date. The Countryside and Rights of Way Act 2000 introduced a cut off date where all unrecorded public rights that existed prior to 1949 would be extinguished.

- T. As the cut off date gets closer many user groups and other bodies with interests in PRow are implementing plans to investigate as many of these pre-1949 unrecorded PRow as possible. Where evidence is found indicating that public rights exist they will be making DMMO applications. In fact some organisations have secured funding to pay volunteers for every application that is made.
- U. Whilst the area covered by the council is relatively small, its long history means that it is likely that a number of unrecorded ways will be found and the council will receive more DMMO applications. If these applications are received after the implementation of the Deregulation Act then the PA process will also need to be applied to them.
- V. In addition, as public awareness of the 2026 cut off date increases there will be an inevitable increase in pressure on the council to proactively look for unrecorded PRow and get them protected before they are extinguished in 2026.
- W. The Deregulation Act and the 2026 cut off date are both likely to significantly reduce the rate at which the current DMMO application backlog is eliminated.
- X. Bearing the above in mind it is recommended that an additional Rights of Way post is created to be engaged in a technical support role rather than as an experienced DMO. This could be a role that is suitable for consideration under the council apprentice schemes. The reasons for taking this approach are twofold. First, a technical support officer/apprentice will be less costly to employ than an experienced DMO. Second, dealing with DMMO applications is a highly specialist role so attracting experienced officers is usually a case of poaching one from another authority.
- Y. Having said that definitive map work is specialised, there is a significant amount of the process that, although still specialised is more administrative in nature, for example sending out, collating and responding to consultation responses, interpreting historical documents, transcribing relevant sections of inclosure and tithe awards, conducting archival research, checking orders for accuracy and legislative compliance, addressing concerns raised by land owners affected by DMMO applications, recording data within the council GIS, and generating maps from that GIS . Moving this part of the process to a less costly technical/apprentice role means that the DMO is being used far more efficiently especially in regard to the preparation of papers to be

submitted to the SoS and representing the council as expert witness at any subsequent local public inquiry or hearing. This maximises their value to the council.

- Z. The cost of employing an additional member of staff in a support role would be in the region of £31,000. Employing an apprentice/trainee in this role would cost in the region of £25,000.
- AA. The creation of a temporary post over varying periods of time has been considered. However, regardless of whether the post was for 1, 2, or 3 years the effect is to simply move the backlog to another stage of the process. Therefore the danger of the council being subject to additional appeals or LGO complaints is not removed. If the post was permanent rather than temporary the problem of just shifting the backlog to another phase would be avoided.
- BB. As the LGO's decision in the current case has been made public, it seems highly likely that some of the existing applicants, particularly those from user groups or other bodies, will use the same approach to try and get their applications processed faster. Therefore there remains a significant risk that valuable officer time will be used answering such LGO complaints instead of eliminating the backlog. A permanent member of staff would greatly assist in ameliorating the additional work that such complaints cause.
- CC. It should also be borne in mind that dealing with as many as 18 opposed DMMOs will take the SoS a considerable amount of time (several years) to resolve and there is a possibility that members of staff who had originally dealt with an application may have left the authority. There are administrative measures that can be put in place that will largely eliminate the danger from this loss of expertise.
- DD. The council is in the unusual position where the likely future demand for the definitive map statutory function can be predicted with a higher than usual degree of certainty. The combination of the urgent need to eliminate the current backlog of DMMO applications and the changing legislative framework mean that at least until 2026 there is an obvious sustained increase in the demand on the definitive map function that is beyond the current available staff resources.
- EE. Therefore adding an additional member of staff in a support role or an apprentice would allow all the existing applications to be determined, have all relevant orders made, complete the required public consultation,

send all opposed DMMOs to the secretary of state, and increase the team's ability to meet the demands that the legislation changes will bring.

FF. As noted above, definitive map work is a highly specialised role and there are an extremely limited number of experienced officers available. Even in a support role the additional member of staff/apprentice would gain valuable experience in definitive map work. In the event the current DMO leaves the council, the additional member of staff would be able to step into that role, minimising disruption to the service and preventing appeals and complaints.

Review of Definitive Map Budget

GG. The current definitive map budget is £16,000. This budget is used to place the legally required adverts in the press and to fund any subsequent public inquiry or hearing should an order be opposed. By resolving the existing 18 applications some expense will inevitably be incurred.

HH. The current legislation requires that an unopposed DMMO is advertised in the local paper on two separate occasions. Such adverts today cost approximately £900 each. Eliminating the DMMO backlog will result in an increased need for advertising which means that the current definitive map budget (£16000) is likely to be overspent each year until the backlog has been dealt with. The resolution of all 18 applications, if unopposed, will lead to a total advertising expense of approximately £32,400.

II. Whether this expense is incurred over 1 year or more will depend on the decision taken with regard to staffing levels. However, it is likely that most, if not all the applications, will be opposed and this will inevitably lead to additional expense.

JJ. In dealing with opposed DMMOs there are a number of options available to the SoS, all of which the council is required to fund. The most expensive option is to hold a full local public inquiry which requires an additional (third) notice to be placed in the local newspaper (approx £900) and a venue to be found and staffed.

KK. If the inquiries are all held at West Offices then for each opposed DMMO there will be an additional spend of approx £1,400 (including the required third advert), leading to a total cost of clearing the backlog of approximately £57,600.

LL. If the inquiries are required to be held at an external venue then for each opposed DMMO there will be an additional spend of approximately £6000 (including the required third advert) , leading to a total cost of clearing the backlog of £140,400.

MM. There is a great deal of uncertainty over what will be required in order to eliminate the backlog. The figures set out above illustrate only a small number of possible scenarios. Consequently it may be prudent at this stage to commit to keeping the budget under review and consider additional expenditure as and when it is required.

Options for the review of staffing levels and budget

NN. Review of staffing levels and budgets (SLB).

- a. SLB Option 1: Develop an apprentice/trainee role for rights of way initially concentrating on DMMO applications commencing in April 2020.
- b. SLB Option 2: Keep further resources under review to ensure the commitment set out under SoP option 1 can be achieved.
- c. SLB Option 3: Take note of the review of staffing levels and budgets but not authorise any changes.

OO. Options 1 and 2 are the recommended options.

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Wildlife and Countryside Act 1981
Review of the Definitive Map and Statement
of
Public Rights of Way

STATEMENT OF PRIORITIES

Introduction

The City of York Council is the Surveying Authority for the purpose of preparing and maintaining the Definitive Maps and Statements for the City of York Council area, pursuant to the provisions of the Wildlife and Countryside Act 1981. In accordance with Department of the Environment Circular 2/93, paragraph 24, the City of York Council has adopted the following "Statement of Priorities" for undertaking this work.

Statement of Priorities

The review of the Definitive Maps and Statements of Public Rights of Way will be undertaken on the following basis :-

- 1) Production of Legal Event Modification Orders and consolidated Definitive Maps and Statements, in the following order, for the former West, North and East Ridings of Yorkshire, which now fall within the City of York Area. Legal Event Modification Orders will then be made on an annual basis.
- 2) Production of a Definitive Map and Statement for the area covered by the former County Borough of York.
- 3)* Investigation of any anomalies discovered on the Definitive Maps and Statements.
- 4a) Investigation and determination of those applications for Definitive Map Modification Orders submitted, to the former Surveying Authority (North Yorkshire County Council), for the area now controlled by the City of York Council prior to 1st April 1996.
- 4b) Investigation and determination of any applications, out of sequence, which in the view of the Council are :-
 - i) necessary to prevent actions which are illegal under current highway legislation, or
 - ii) deemed to necessitate immediate action in an attempt to prevent further local difficulties.
 - iii) in the interests of the promotion of development

Requests for applications to be considered out of sequence must be made in writing and will be considered and determined by the appropriate Planning and Transport Area sub-Committee.

If it is decided to take an application out of sequence, the applicant will be informed accordingly and advised that the application will be prioritised within the list of out of sequence applications which meet the criteria of paragraph 4b, i, ii & iii above, as deemed appropriate.

- 4c) Investigation and determination of any applications for Definitive Map Modification Orders submitted to the City of York Council, after the 1st April 1996, in chronological order of their receipt, subject to paragraph 4b above.
- 5)** The investigation, and reclassification if required, of R.U.P.P.s reclassified under the Countryside Act 1968.
- 6) Investigation and determination of any anomalies discovered on the Definitive Maps and Statements.
- 7) Production of consolidated Definitive Maps and Statements, taking into account all confirmed Definitive Map Modification Orders and Legal Event Modification Orders.
- 8)*** The updating, and production of, individual Definitive Statements for every path, including modifications to take into account the authorised addition/removal of stiles, gates and other physical features.

Review of Statement of Priorities

The above "Statement of Priorities", for the review of the Definitive Maps and Statements of Public Rights of Way, will be reviewed on an annual basis as part of the 'Milestones' process, and progress reported to the Transport Consultative Group – Pedestrians and Rights of Way.

Notes

- * On 14 October 1999 the Planning and Transport Committee resolved to temporarily defer further work, other than that already underway, on the determination of applications for Definitive Map Modification Orders. This decision was made in order to allow investigations to be undertaken to identify the true nature and extent of outstanding anomalies on the Definitive Map.
- ** Subject to the provision of additional resources, approved by the Planning and Transport Committee on 14 October 1999, this item will be taken out of sequence starting 2000/01.
- *** Subject to the provision of additional resources, approved by the Planning and Transport Committee on 14 October 1999, work on the Definitive Statements for that part of the former North Riding now within the City of York, will be taken out of sequence starting 2000/01.

October 1999

Approved by the Planning & Transport Committee 27 August 1998
Revised by the Planning & Transport Committee 14 October 1999

Annex 6: Revised Statement of Priorities

Wildlife and Countryside Act 1981
Review of the Definitive Map and Statement
of
Public Rights of Way

STATEMENT OF PRIORITIES

Introduction

The City of York Council is the Surveying Authority for the purpose of preparing and maintaining the Definitive Maps and Statements for the City of York Council area, pursuant to the provisions of the Wildlife and Countryside Act 1981. In accordance with the Department for Environment, Food, and Rural Affairs' Rights of Way Circular 1/09, paragraph 4.9, the City of York Council has adopted the following "Statement of Priorities" for undertaking this work.

Statement of Priorities

The review of the Definitive Maps and Statements of Public Rights of Way will be undertaken on the following basis:

1. When City of York Council receives a direction from the Secretary of State to make a definitive map modification order, the order will be made within three calendar months of receiving the Secretary of State's direction. The Secretary of State's direction bypasses the usual method of approval for making orders.
2. When City of York Council receives a direction from the Secretary of State to determine a definitive map modification order application, the application will be determined within twelve calendar months of receiving the Secretary of State's direction. Such a determination is to be made using the usual method of determining applications.
3. Investigate definitive map modification order applications in order of receipt with the oldest applications being investigated first. All applications must be determined chronologically within the relevant statutory period.
 - a. When City of York Council determines that it will make a definitive map modification order, that order will be made and publicised as soon as reasonably practical after the determination.
 - b. When City of York Council determines that it will not make a definitive map modification order, the applicant will be advised of this and their right to appeal as soon as reasonably practical following the determination.
4. Submit all opposed definitive map modification orders to the Secretary of State for resolution. At least one opposed order must be submitted to the Secretary of State every three months with the oldest order being submitted first. This will be done more frequently when resources allow.
5. Complete the investigation of ways within the former County Borough of York, any unrecorded ways found to be added to the definitive map of the former

Annex 6: Revised Statement of Priorities

County Borough of York by definitive map modification orders seeking to record multiple paths. Where objections are received for specific routes the orders are to be severed and the unopposed parts confirmed. The rest of the order will be submitted to the Secretary of State for determining in accordance with paragraph 2.

6. Investigate anomalies found on the definitive map and other lost ways brought to the council's attention to prevent the loss of unrecorded public rights of way as a consequence of the 2026 cut off. Make orders where the evidence meets the statutory tests.
7. Produce legal event modification orders for all the constituent definitive maps.
8. Upon completion of all the relevant legal event modification orders, a new definitive map and statement for the whole area of the Council of the City of York will be produced in accordance with the current legislation.

Review of Statement of Priorities

The above "Statement of Priorities" will be reviewed by the Executive Member for Transport and Planning as part of the annual definitive map modification order review report.

Notes

June 2019



Executive**17 July 2019**

Report of the Director of Economy and Place
Portfolio of the Executive Members for Environment and Planning and
Transport

Council supported local bus services**Summary**

1. Following approval at the Executive meeting in January 2019, a competitive tender exercise has been undertaken to secure operators for the provision of socially necessary local bus services in the York area.
2. The cost of the tenders exceeds the allocated annual budget of £654,140 by £29,937 for 2019/20 and £55,278 for 2020/21 onwards.
3. Councillors are asked to approve the award of tenders except where commercial offers have been made or further negotiations are recommended.

Recommendations

4. The Executive is asked to note the content of the report and to:
 - i) approve the award of contracts to the winning bidder for routes 11, 14, 19, 20, 21, 24/25/26 and 26 (evening).
 - ii) decline to award a contract for route 10 (evening) on the understanding that this will be operated commercially at no cost to the Council.
 - iii) delay the award of a contract for route 15 (currently part of route 12) until further negotiations have taken place with operators.
 - iv) delegate the final decision on route 15 (currently part of route 12) to the Assistant Director of Transport, Highways and the

Environment in consultation with the Executive Member for Transport

- v) Note the additional costs of the tender exercise to be funded from additional resources identified in the July Budget Amendment subject to agreement. If this funding is not confirmed alternative arrangements will need to be identified e.g. review of options proposed by operators.

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.

Background

5. The City of York benefits from a comprehensive network of local bus services, the vast majority of which are operated without subsidy from the Council. All of the bus routes in York are operated by private sector companies who are free to decide how they will run any services not requiring financial support. This includes defining the route, stopping points, the timetable and the fares charged.
6. Where local bus operators have not registered bus services, the Council may identify areas of York, or particular times of the day or week when it wishes to buy local bus services. As a result, a number of bus routes are partially funded by the Council and operate under contract. For these services the Council sets the route, stops, timetables and monitors the performance of each service. Operators retain all fares revenue from these services.
7. The budget, net of contributions from third parties (e.g. North Yorkshire County Council) currently allocated for local bus services for financial year 2019/20 is £654,140. It should be noted that this sum does not include the Council's £70,000 annual contribution to the Dial & Ride community transport service and voluntary car scheme (both currently operated by York Wheels).
8. All except for three of the Council's contracts for local bus services expire at the end of August 2019. A summary of the services is shown at Table 1 below identifying the cost of the gross and net cost of the services to City of York Council. Greater detail is provided at Annex A. Maps of each route are provided at Annex B. For context, a copy of the York Bus Route

Map, showing the entire York bus network, is provided at Annex C.

9. The Council has for at least twelve years assessed the performance of its supported services against two measures:
 - a. Subsidy per passenger travelling on the service. For this measure, £2 has been deemed the upper limit warranting support. This sum has not been adjusted to take account of inflation for many years.
 - b. Passengers per bus hour. This means the number of passengers carried in relation to the number of vehicle operating hours on a given service. For this measure, a minimum limit of 9 passengers per bus hour has been applied.

Services currently falling outside these criteria are highlighted in bold in the table at Annex A.

Table 1

Route	Time of day	Origin	Via	Destination	Current gross cost p.a. (£)	Current net cost p.a. (£)
<i>Services being re-tendered</i>						
10	Evening	Poppleton	City Centre & Dunnington	Stamford Bridge	24,477	18,477
11	Evening	Bishopthorpe	South Bank	Stonebow	17,385	
12	Daytime	Stonebow	Heworth	Monks Cross	44,530	
14	Evening	Foxwood	City Centre / New Earswick	Haxby West Nooks	41,785	
19	Daytime	Skelton	Clifton & Rawcliffe	Exhibition Square	52,370	
20	Daytime	Rawcliffe	Clifton Moor & Haxby	Monks Cross / Osbaldwick	132,675	
21	Daytime	Colton	Acaster Malbis & Bishopthorpe	Foss Islands	70,586	42,775
24	Daytime	Ascot Way (Acomb)	Acomb & Holgate	Piccadilly		
25	Daytime	Derwenthorpe	Foss Islands	Crossfield Crescent (Fulford)	178,881	146,881
26	Daytime	Crossfield Crescent (Fulford)	City Centre	South Bank		
26	Fri/Sat eve	Piccadilly		Crossfield Crescent (Fulford)	2,747	
<i>Services not being re-tendered in 2019- contracts not due to expire this year.</i>						
16	Daytime	Acomb	Holly Bank	York (Piccadilly)	52,699	
18	Daytime	Holme	Bubwith / Wheldrake	York (Merchantgate)	60,535	25,241
36	Daytime	Elvington	Wheldrake	York Station	61,170	53,138
22	Daytime	Knaresborough	Ripon	York (Piccadilly)	2,338	
42	Daytime	Selby	Naburn	York (Piccadilly)	6,000	
181	Daytime	Castle Howard	Sheriff Hutton	York (Station Ave)	2,000	
412	Daytime	Wetherby	Rufforth	York (Piccadilly)	7,560	
Total annual cost					757,738	648,601

10. A number of these services were last tendered in 2011. Legally, contracts for local bus services cannot be awarded for a period exceeding eight years (Transport Act, 1985 as amended by the Local Transport Act, 2008). To ensure continuity of service, the Council issued tenders for all of the services due to expire in August 2019.
11. In line with the wishes of the Council's Executive (January 2019), tenders were invited for all of the services which the council currently subsidises and that are due to expire in August. The tenders do, however, include a requirement for vehicles to meet or exceed Euro VI emissions standards and to be fitted with Audio-Visual stop announcements.
12. In January, the Council's Executive approved the introduction of a Clean Air Zone (CAZ) in York City Centre. From January 2020, all diesel vehicles providing local bus services will be required to meet Euro VI emissions standards if they enter the city centre five or more times per day.
13. As part of the CAZ scheme, the Executive agreed to provide grant funding to bus operators of up to £1.6m in total (up to £20,000 per vehicle) for replacement or upgrade of non-compliant buses to CAZ standards. Bus operators bidding to provide council-supported bus services have been asked to declare how many vehicles they intend to upgrade or replace using this fund. On the basis of bids received, the cost of funding vehicle upgrades for tendered services will be no greater than £180,000.

Consultation

14. Due to the pending expiry of the current contracts at the end of August 2019, the Council's Executive in January 2019 supported the re-tender of the existing network on a 'like for like' basis. The timing of the local elections meant that no general public consultation could be undertaken ahead of the issuance of tenders.
15. The York Bus Forum, as a representative body for bus users was consulted and provided a number of views, many of which have been incorporated into the tender documentation.
16. Bus operators were consulted to establish whether:
 - a. Any company considered that there was a commercial opportunity to operate part of the current tendered bus network (i.e. without subsidy). None of the operators identified such an opportunity at that

time.

- b. Any changes were required to the current routes or timetables to deliver greater service reliability or punctuality. As a result of this discussion, some minor changes were made to the suggested timetables.

Analysis

17. In light of the original lack of interest shown by operators in any commercial opportunities in the tendered network it was considered unlikely that the discontinuation of any Council-subsidised services would be replaced by commercial alternatives. This is supported by the data contained within the table at Annex A. For reference, a figure of 30 passengers per bus hour could generally be considered to be 'commercial' by the bus industry. This equates to an average operating cost of approximately £35/hour.
18. However, the tender results revealed that this situation has changed slightly. An offer was received to operate the evening service 10 commercially, at no cost to the council. Officers recommend that no contract is awarded for this service so that the commercial operation can commence from 2nd September.
19. Bids for the remaining services have been evaluated. Awarding contracts to the winning bidder for each of these services would require an additional sum of £29,937 to be added to the budget for the remainder of 2019/20 and an annual sum of £55,278 to be included in the budget for 2020/21 onwards. A breakdown of costs by service is shown in Confidential Annex D.
20. Officers recommend that contracts are awarded for all remaining services with the exception of service 15 (the proposed new route number for service 12 between Stonebow and Monks Cross).
21. Due to the complex nature of bids received for service 15, officers recommend that further discussion takes place with operators and that the final decision to award a contract for this particular service is delegated to the Executive Member for Transport.

22. It is recommended Members commit to funding the £55,278 full year shortfall for the retendered service if after the further negotiations on route 15 a shortfall still remains against the overall budget.
23. It should be noted that whilst services have been tendered on a 'like-for-like' basis, there will be some slight changes to timetables from September mostly to improve reliability. However, the current operator of service 19 added a small number of extra commercial journeys into the timetable during the lifetime of the current contract. As these do not form part of the contract requirement, there is no expectation that they will continue to operate beyond September.

Council Plan

24. Implications

Financial

The following table summarises the budget position

	Budget 2019/20	Current Annual Cost	Proposed 2019/20 Cost	Full Year 2020/21 Cost
Expenditure	£704,140	757,738	£793,214	£818,555
Income	(£50,000)	(£109,137)	(£109,137)	(£109,137)
Net Expenditure	£654,140	£648,601	£684,077	£709,418
Shortfall in Budget			£29,937	£55,278

The cost of providing all services will require an increase in the council's supported bus service budget of £29,937 for the remaining part-year 2019/20 and £55,278 (full-year) from 2020/21 onwards. This has been identified within the Budget Amendment considered by Full Council the day before this meeting. Should the amendment be agreed funding will be available for the increased tender prices.

Human Resources (HR) – N/A

Legal

If approved, contracts will be signed with winning bidders. Contracts will remain valid for five years, with an optional three year extension. The council will have the right to terminate contracts at 3 months notice or as a result of sustained poor performance by an operator.

Crime and Disorder- N/A

Information Technology (IT) – N/A

Property – N/A

Other – N/A

Risk Management

Should the decision be taken not to award contracts where no commercial offer has been made, it is highly likely that the affected bus services would cease to operate on 2nd September. This would remove services which are considered to be socially necessary, leaving areas of the city without a public transport option for residents. The recommendations in this report seek to minimise the risk of this occurring by ensuring that all services continue to operate.

Contact Details

Authors:

Sam Fryers
Title: Public Transport Planner
Dept Name: Transport
Tel No. 01905 551434

Chief Officer Responsible for the report:

Chief Officer's name Neil Ferris
Title Corporate Director of Economy and Place

Report **Date** 9 July 2019
Approved

Specialist Implications Officer(s) List information for all

Implication : Financial

Implication: Legal

Name: Patrick Looker
Title: Finance Manager
Tel No. 1633

Name: Cathryn Moore
Title: Senior Solicitor
Tel No. 2487

Wards Affected: List wards or tick box to indicate all **All**

For further information please contact the authors of the report

List of Annexes:

- Annex A - Subsidised bus service performance**
- Annex B - Route maps of supported bus services**
- Annex C - York Bus Route Map**
- Annex D (confidential) - Annual cost of new and current contracts**

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Annex A – Subsidised bus service performance

Route	Time of day	Current gross cost p.a. (£)	Current net cost p.a. (£)	New annual cost (£)	Annual passengers (2018/19)	Current subsidy per passenger (£)	Passengers per bus hour
Services being re-tendered							
10	Evening	24,477	18,477	*	10,216	2.39	14.5
11	Evening	17,385		*	11,286	1.54	12.1
12	Daytime	44,530		*	78,452	0.57	18.4
14	Evening	41,785		*	39,286	1.06	19.6
19	Daytime	52,370		*	74,712	0.70	24.1
20	Daytime	132,675		*	72,593	1.83	10.9
21	Daytime	70,586	42,775	*	27,905	2.53	9.6
24	Daytime	178,881	146,881	*	66,666	0.64	19.2
25	Daytime				70,617		20.8
26	Daytime				92,418		27.9
26	Fri/Sat eve	2,747		*	410	6.70	16.5
Services not being re-tendered in 2019							
16	Daytime	52,699		n/a	58,457	0.90	14
18	Daytime	60,535	25,241	n/a	46,480	1.30	14.9
36	Daytime	61,170	53,138	n/a	19,268	3.17	9
North Yorkshire services receiving CYC contribution (CYC contribution shown)							
22	Daytime	2,338		n/a	n/a	n/a	n/a
42	Daytime	6,000		n/a	n/a	n/a	n/a
181	Daytime	2,000		n/a	n/a	n/a	n/a
412	Daytime	7,560		n/a	n/a	n/a	n/a
TOTAL		757,738	648,601				

*Tender prices remain confidential until a decision to award contracts has been made. These figures are shown in confidential Annex D.

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Annex B - Route maps of council-supported bus services being re-tendered in 2019.

Maps can also be viewed online at <https://drive.google.com/open?id=1-KNTh91hAOWKS2kJbTDCNoPLKYxmMCpS>

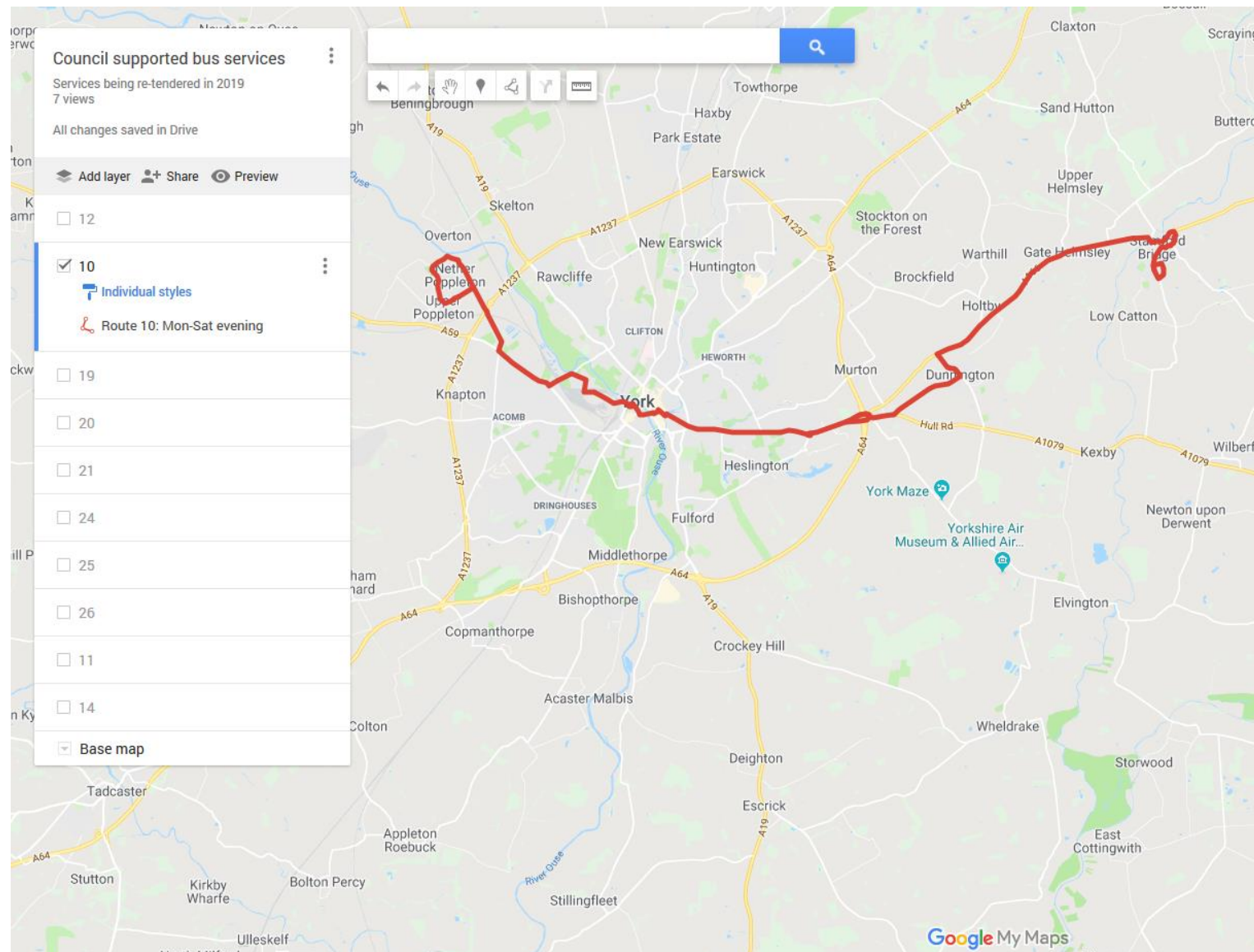


Figure 1: Service 10 (Mon-Sat evenings)

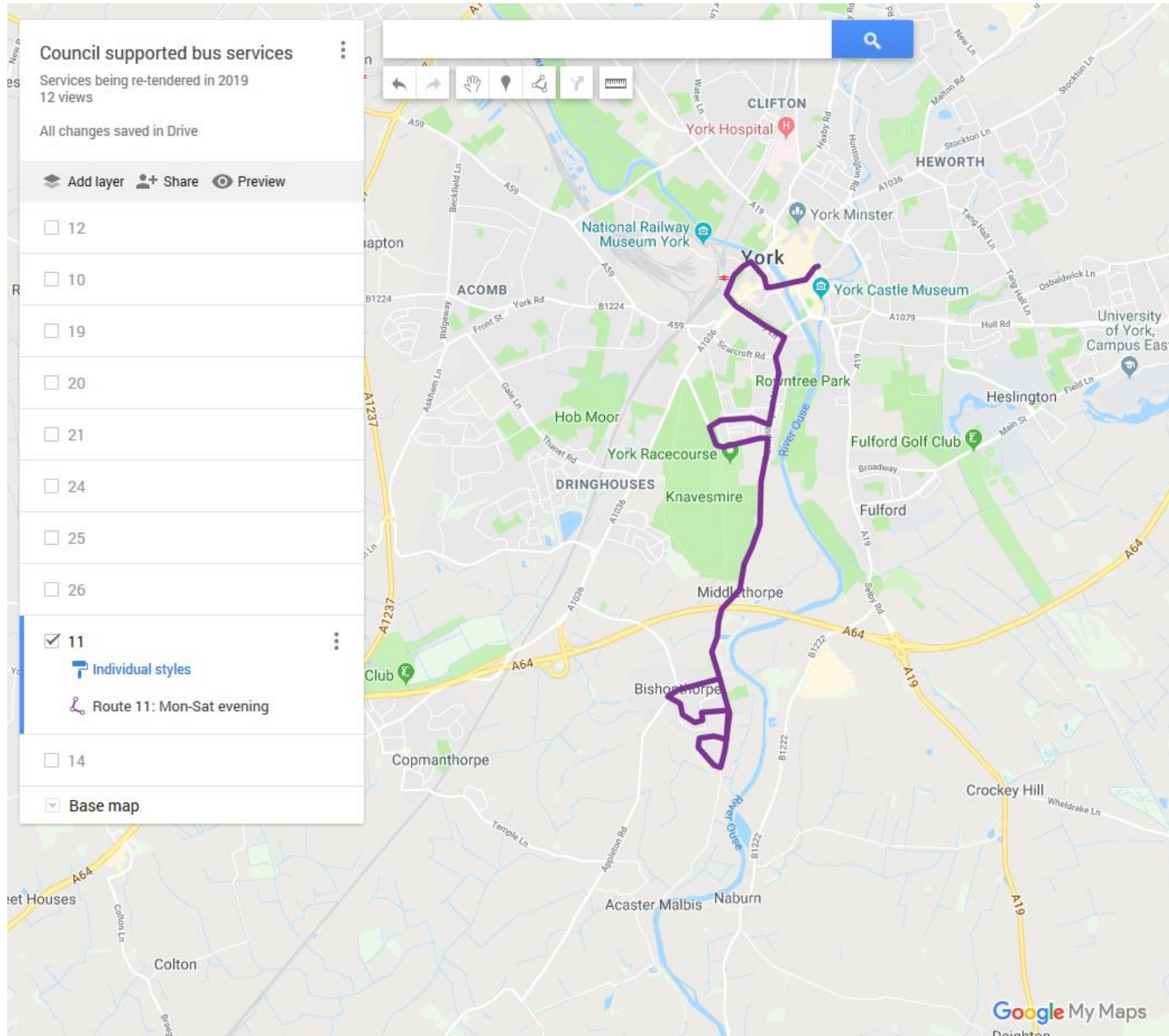


Figure 2: Service 11 (Mon-Sat evenings)

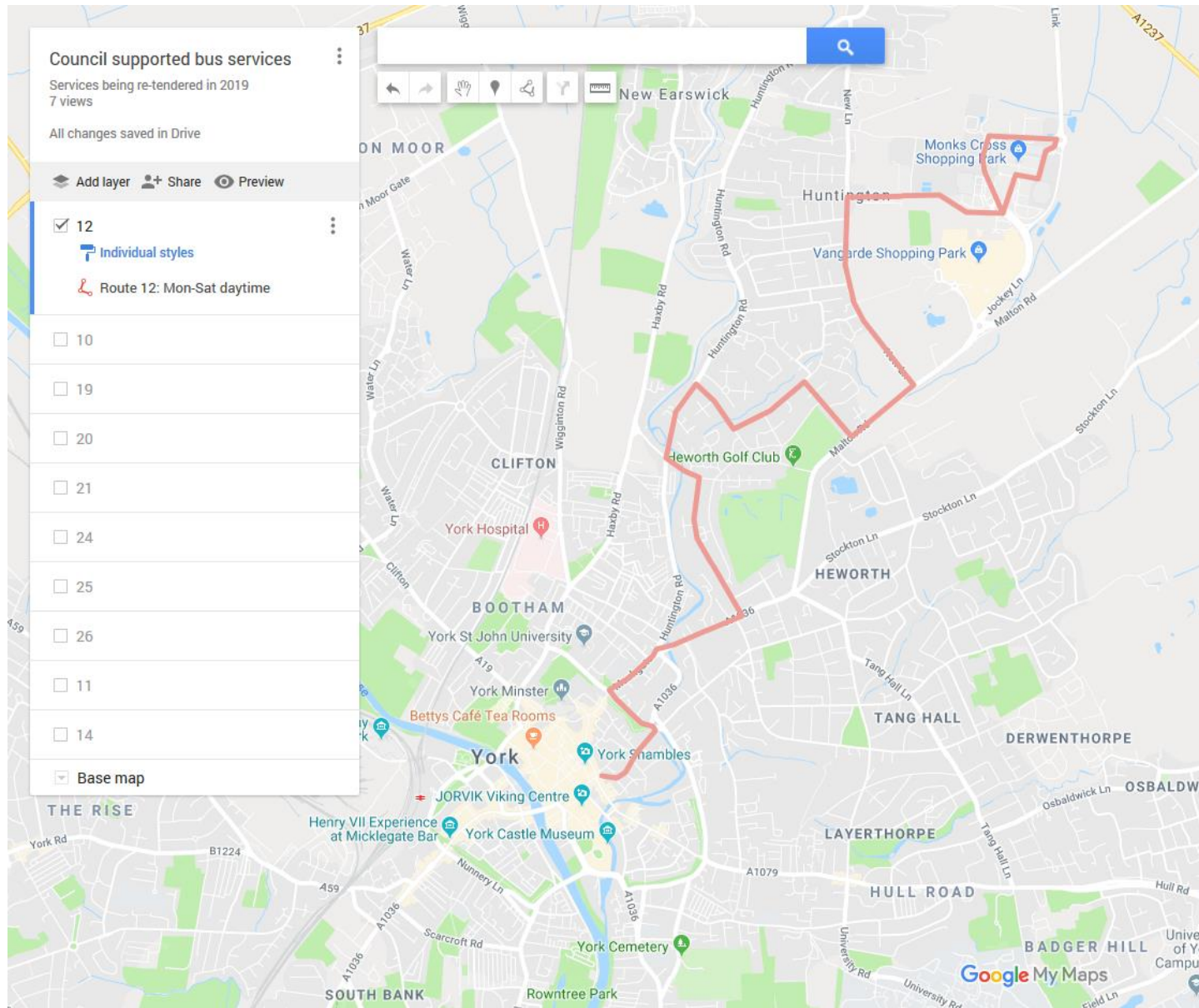


Figure 3: Service 12 (Mon-Sat daytimes)- supported section is between Malton Rd and Monks Cross.

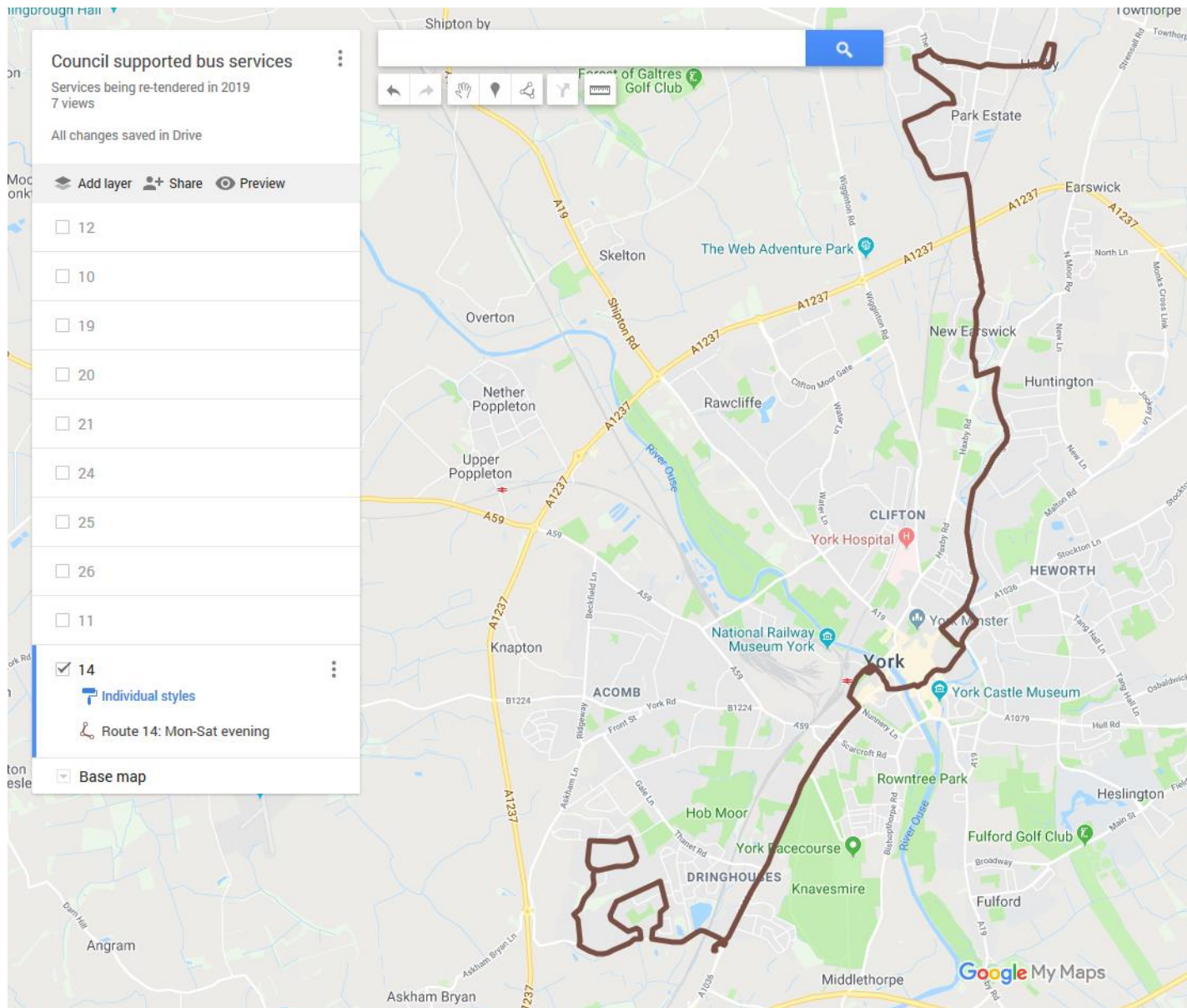


Figure 4: Service 14 (Mon-Sat evenings)

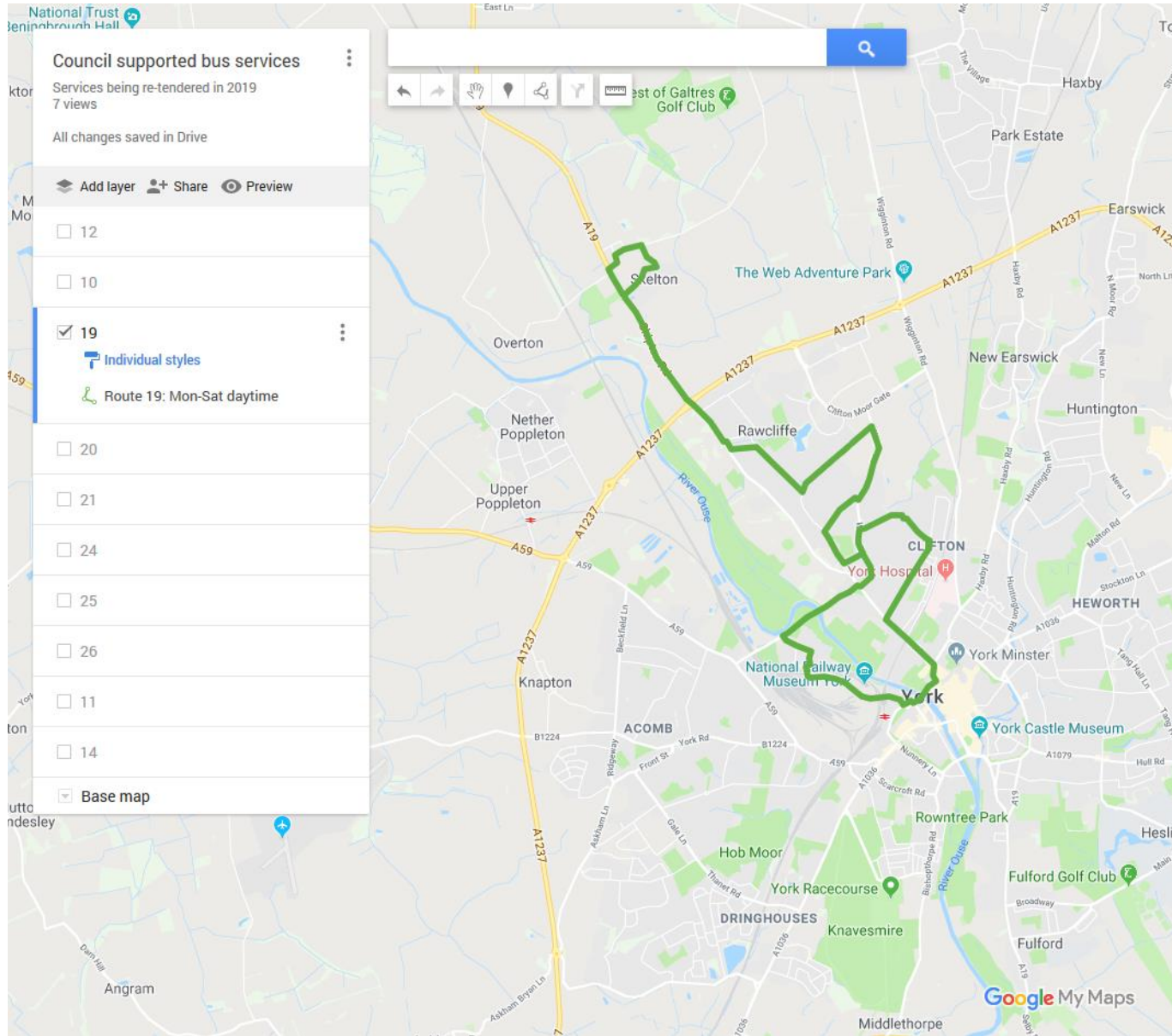


Figure 5: Service 19 (Mon-Sat daytimes)

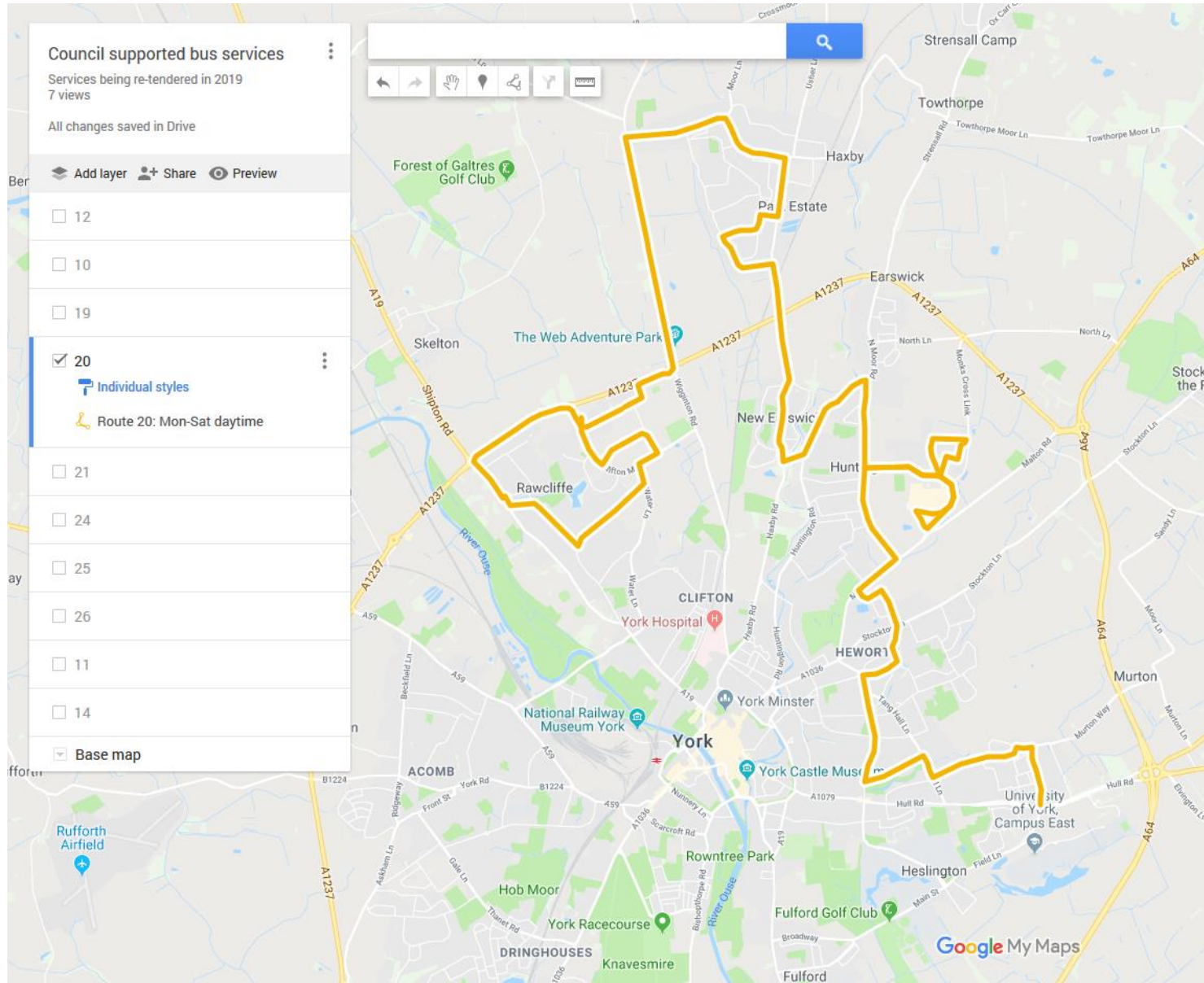


Figure 6: Service 20 (Mon-Sat daytimes). The section between Heworth and Osbaldwick only operates at school start/finish times.

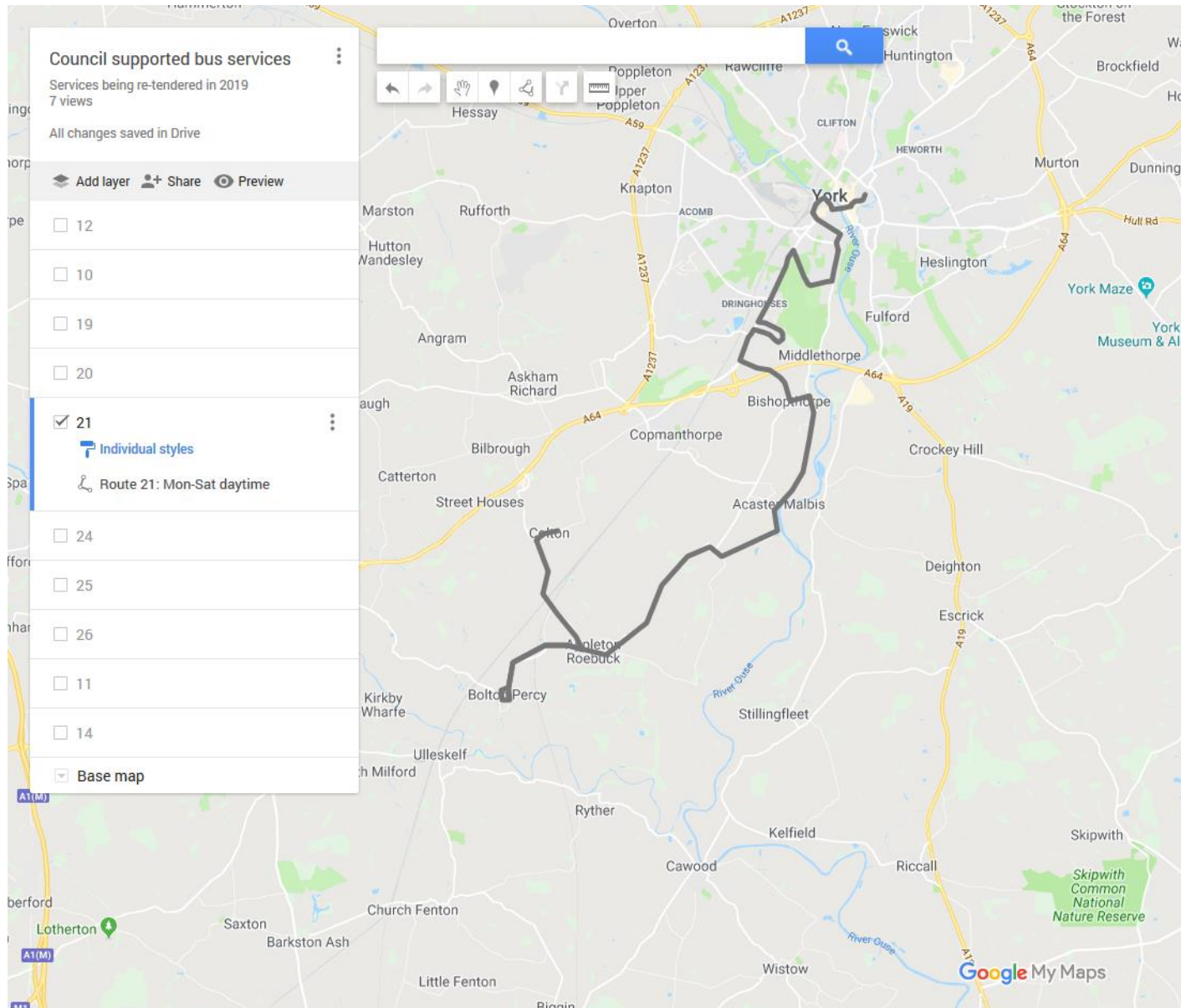


Figure 7: Service 21 (Mon-Sat daytimes)

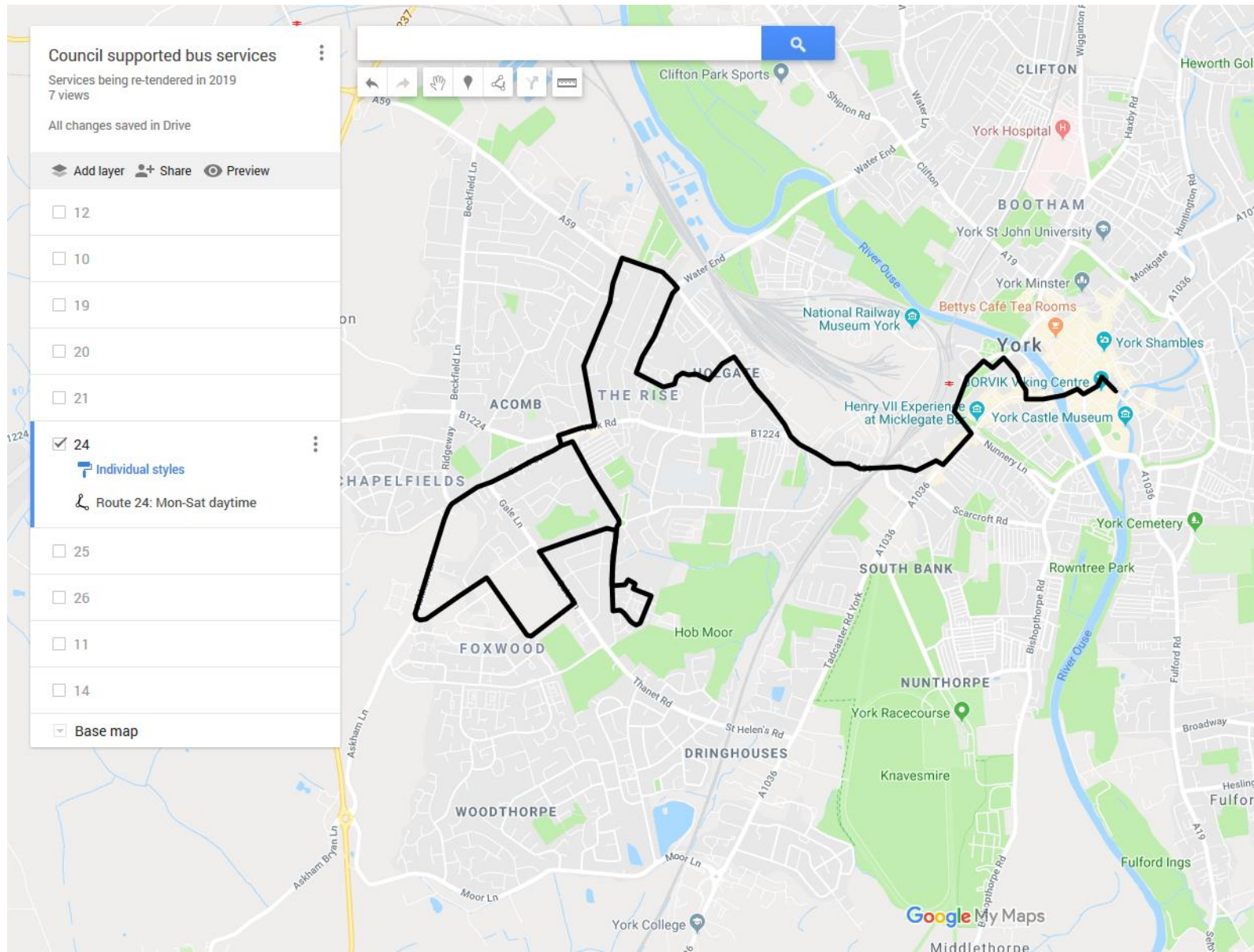


Figure 8: Service 24 (Mon-Sat daytimes)

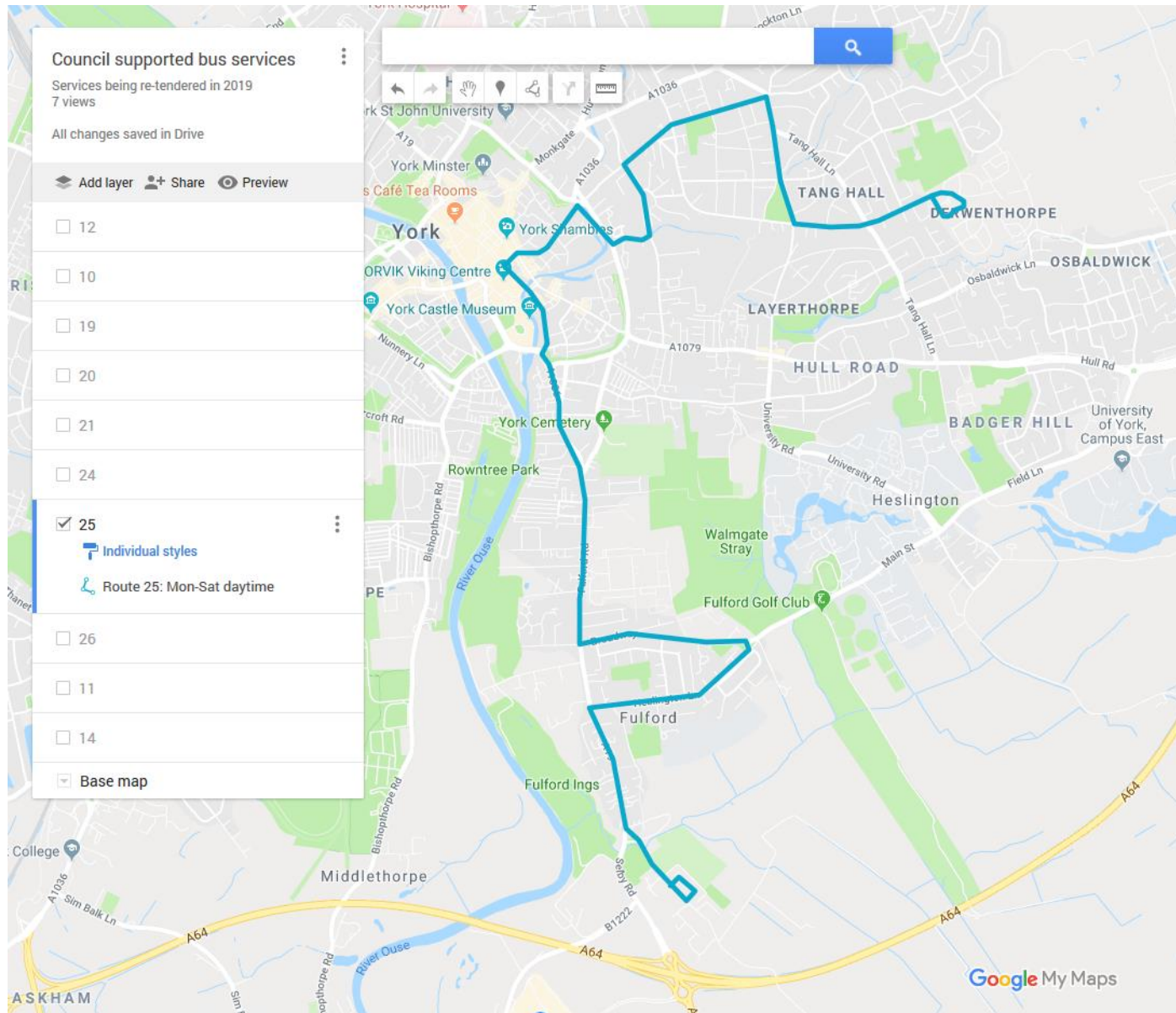


Figure 9: Service 25 (Mon-Sat daytimes)

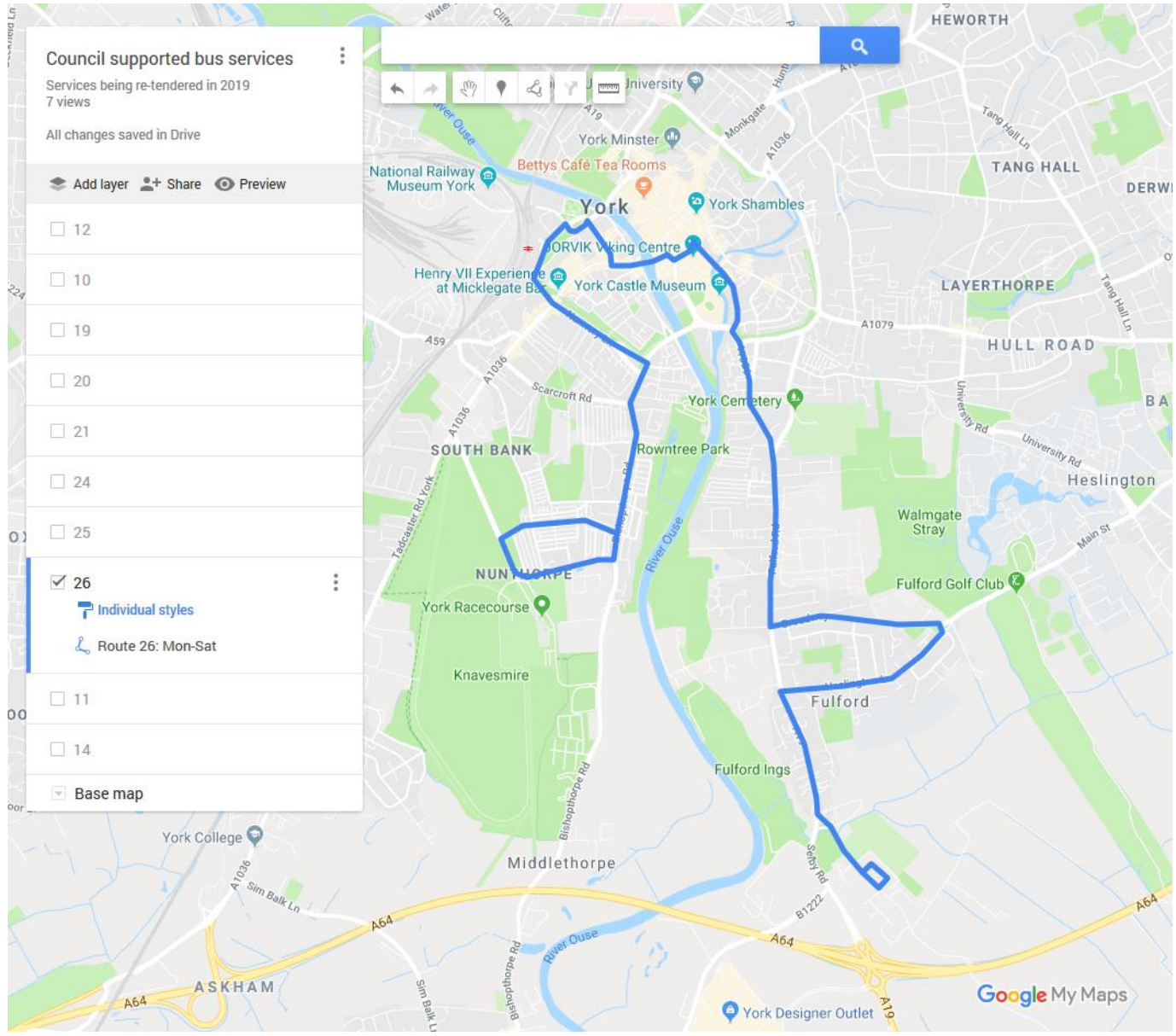
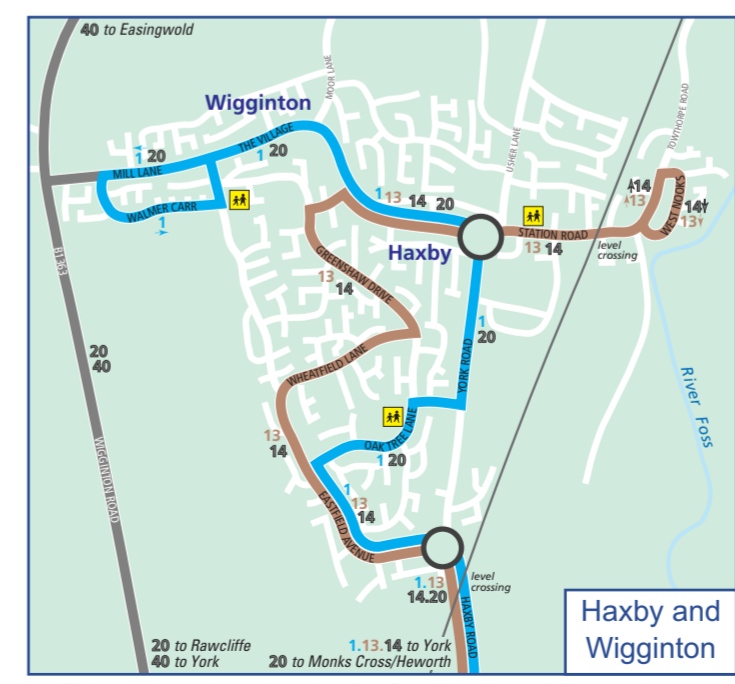
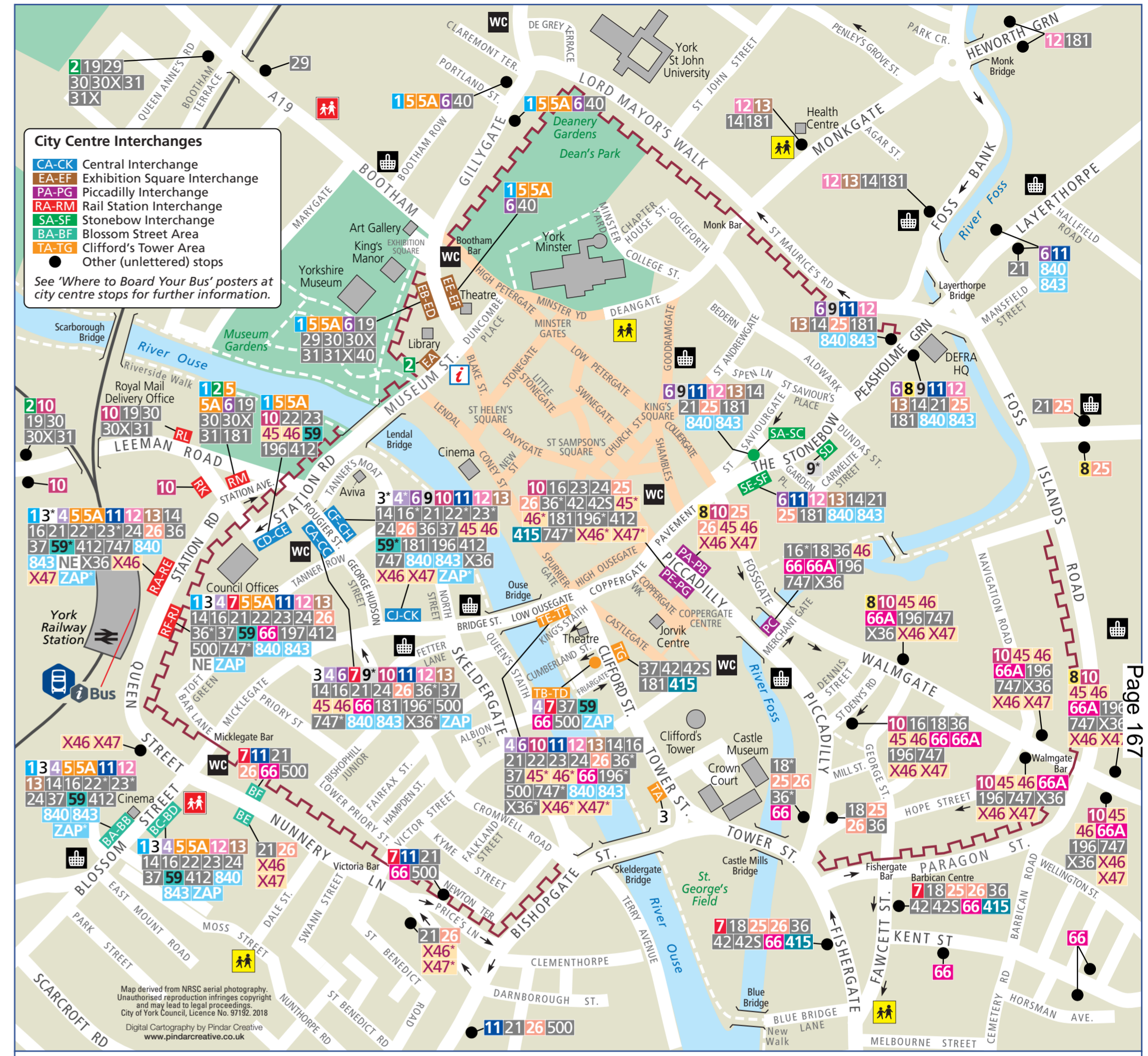
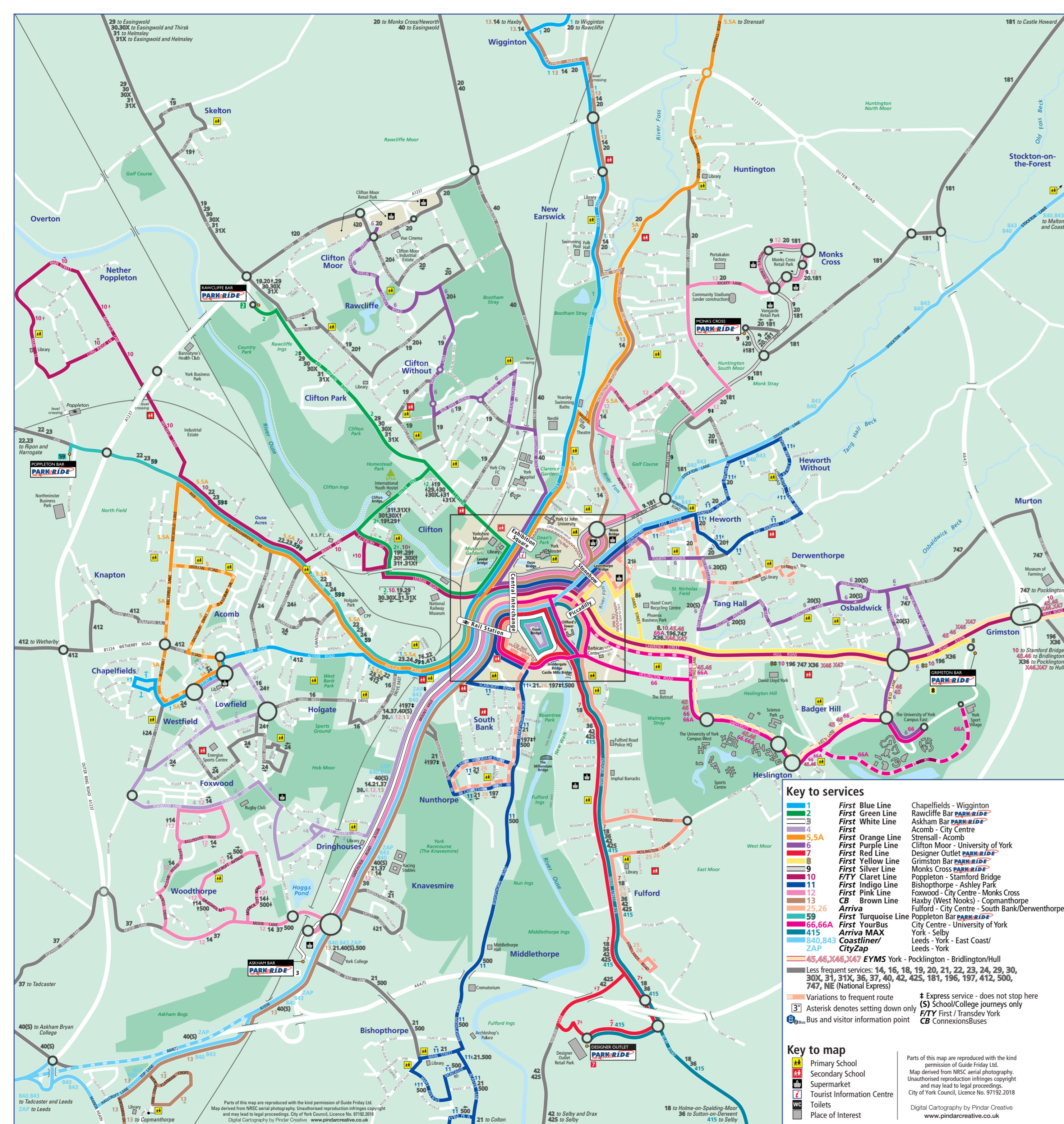


Figure 10: Service 26 (Mon-Sat daytimes, plus one journey from Piccadilly to Fulford on Fri/Sat evenings)

York Bus Route Map



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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

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