

ELECTED MEMBER QUESTIONS TO COUNCIL – 27 November 2024

1) Question from Councillor E Fordham to Councillor B Lewis, Leader of the Council

“Over the last 3½ years or 7½ years the Leader has been an active champion for more funding for Derbyshire County Council. How successful has that advocacy and lobbying been?”

Councillor Lewis’s response:

“County Councils Network raises the profile of local government finances and challenges faced by local authorities. This has led to a national debate on money for the County Council for example, additional money for social care in 2024 and 2025. The government is committed to the review of how local authorities are financed and we will continue to lobby government for extra money for the county council.”

2) Question from Councillor E Fordham to Councillor B Lewis, Cabinet Member for Strategic Leadership, Tourism, Culture and Climate Change

“The county has a tree planting scheme across Derbyshire - would the portfolio holder consider making the scheme more devolved and asking councillors to help identify locations and opportunities for tree planting in each individual division? And to ask what proportion of the trees planted this far are fruit or nut trees?”

Councillor Lewis’s response:

“As part of this Council’s hugely successful million trees projects, we have been successful in planting well over half a million trees at this point. We expect that we will get to our target well before 2030 and are ambitious to continue with that as a programme and maybe try to extend to 2 million trees if we can.

England's community forests are in and around large towns and cities, providing urban, economic and social regeneration, infrastructure etc and creating high quality environments for millions of people. The scheme covers the eastern side of the county and includes the north east of Chesterfield, Amber Valley, the Derby City area and Erewash and links up with the National Forest in the south. Just over the border in Nottinghamshire there is another community forest so that covers a considerable swathe of the East Midlands Combined Authority area.

It's called Heartwood because of its location, will occupy central positions and will provide a missing link to join up those woodland areas to pockets of

available land over geographic areas of approximately 289 square miles in communities along the eastern border and areas to the south of the county.

The Heartwood Community Forest is fully funded by revenue and capital grants from the government's Trees for Climate Programme. The initial grant period is until 2026 and included in the government's Comprehensive Spending Review that is currently underway. Work in 2024 and 2025 is concentrated on setting up the Heartwood Community Forest Team and developing woodland creation schemes on Council owned land and with private landowners. The Team expects to plant in excess of 50 hectares of new woodland and hedgerows by the 31 March, 2025. Significant projects are planned at Markham Vale North Tip, Ripley Pit Top and in Greenway, as well.

The Heartwood SAF Urban Team will welcome the help and support of councillors right across Derbyshire in identifying landowners, parish councils and community groups and other land ownership interests that might be interested in planting trees on their own land right across their divisions and wards. The Heartwood Team can be contacted at this email address Heartwood@derbyshire.gov.uk

Tree species planted are predominantly native broadleaf trees and shrub species such as oak, hornbeam, silver birch, hazel, blackthorn and holly and a number of community orchards have been planted as part of the Million Trees Project. There's a lot of other activity taking place across the county as well. Myself and Councillor Cupit did a little bit of tree planting on my village green with some donated fruit trees, commonly known as the orchard in the village green. In the appropriate location, the Heartwood community forest can also support the development of new community orchards, which can incorporate a wide variety of fruit and tree species.”

Supplementary question from Councillor Fordham:

“When it comes to the community understanding why it's so important to plant trees and what difference it can make, there should be programme of devolving amongst councillors here in this chamber and giving communities open access to want to plant trees where they see fit. I think that's what would enable a greater understanding of the importance of woodland and I think we've not grasped that fully which opens for councils and communities to do more.”

Councillor Lewis's response:

“Let's have a conversation with officers about how we can facilitate trees, perhaps granted to councillors or individual projects on that basis. My obsession with orchards and apples is absolute so I'm very keen to support any projects like that.”

3) Question from Councillor E Fordham to Councillor S Spencer, Cabinet Member for Corporate Services and Budget

“Last year, partly in response to fiscal constraints and political concerns, the budget was taken to just one of the scrutiny committees. How useful was this process and can consideration be given to all scrutiny committees being part of the budget process this year?”

This question was withdrawn at the meeting.

4) Question from Councillor G Kinsella to Councillor A Dale, Cabinet Member for Education

“The Local Government and Social Care Ombudsman’s Annual Review makes damning reading, with an increase in complaints/complaints upheld, particularly within Children’s Services. However, this is only the tip of the iceberg - most parents/carers seek redress through the appeal process. Typically councils, including DCC, lose 98% of appeals. Taking over a year from appeal to decision, not only is the financial and emotional burden on families intolerable, but it also wastes vast amounts of taxpayers’ money.

Many parents/carers I speak with believe that the extended, bureaucratic tribunal process is a way of rationing access to special needs education. Do you agree with this view of or is it just the case that the SEN team have a catastrophic misunderstanding of SEN law?”

Councillor Dale’s response:

“We have continued to apologise to families in our service system and an increasing number have felt the need to formally complain, including to the Ombudsman. We recognise the service in Derbyshire has not been working well. We have been taking a number of actions to seek to improve our performance across the partnership, including particularly our communication, engagement with families, that that this work will take time for the impact.

We also regret that sometimes we feel the need to appeal decisions made by the partnership, but it is the appropriate legal mechanism for them to seek redress and change. The reason for disagreements between the partnership and parents are much more complex. I would add that committed members of our centres work extremely hard in very challenging circumstances. I never met a single person who works within our service, who isn't passionate about trying to improve the lives of some of our most vulnerable children.

The decisions which are made, which are the subject of tribunal appeals are not made by the centre. They are made by multi-agency panels made up of professional officers, health colleagues, educational psychologists, school

headteachers and SENCo's, amongst others. The panel makes these decisions on the basis of relevant legislation and the SEND Code of Practice, and the professional advice and evidence before them provided by those who know their child best or most highly, such as educational psychologists. They will always seek to make a decision which, in their professional opinion, is in the best interests of the child.

With regards to tribunals, as I've said, these are the proper legal processes open to parents where they disagree with the panel and we must afford them that right. We are not responsible for the tribunals and that's H.M. Courts and Tribunals Service. However, we will always seek to work with parents to find a resolution for their case against tribunal or to reduce those waiting times where possible.

Around two thirds of the tribunals in Derbyshire are around provision and placement, and this is something we are trying to address in terms of the £11 million investment grade, three additional special school places but, in some cases there is simply a profound disagreement between the parents and the families about what type of placement is sufficient to meet needs which cannot easily be overcome. For example, someone may believe, based on the evidence before them, that a child's needs can be met in a mainstream setting with additional support whereas parents may believe that a special school place is required.

Panels are legally bound to take decisions in the best interests of the child, and they are not taken lightly. A decision to place a child in a specialist setting when it is not felt, it is required or with a peer group whose need is sufficiently greater than their own can have a profound impact on the rest of that child's life, affecting their educational outcomes, affecting their preparation for independent adulthood and even affecting their future employment prospects.

These are not, as your question implies, solely debates about finances but about what is in the best interests of the child in the panel's professional opinion, based on all the evidence before them. What's more is the code of practice for that asks that we make decisions that are compatible with the efficient use of resources. It's not our fault that local authorities, nor the law itself, that H.M. Courts and Tribunals Service seems to disregard this aspect in their interpretation of the law, and the government does need to step up to provide much greater clarity on this issue for all involved as part of the wider reforms that are needed. It's not local authorities, but the laws and the parameters set by national government that we have to operate in. That requires there to be some financial context for the decisions that are made.

I hope you'll agree, though, based on what I've said and what you hope we heard yesterday at the members briefing, is that the situation for local authorities is pretty unenviable and that we are in classic rock and a hard place situation, torn between meeting the wishes of parents, trying to decide

objectively what is in the best interests of the child, and being held to account by government over the financial system, which, frankly, has never been of our making.”

Supplementary question from Councillor Kinsella:

“I don't think anyone could fail to be impressed with the humility and the commitment of the officers to try and resolve some of these difficult issues, however, I have residents contacting me and I have evidence of tribunal rulings where Derbyshire have not complied with the Code of Practice. How will you work more effectively with carers and carers forums, not just informing them but actually co-producing some of the solutions and, linked to that how will members be involved in assessing the performance of the service around this particular area? What engagement will we have as members and what performance information will we be presented with?”

Councillor Dale's response:

“Derbyshire Parent Carer Voice has recently been re-established and meeting regularly with senior officers. They will be present on the Senate Improvement Board, which is being set up with the independent chair as a result of the inspection and so they're very much involved. I am very keen that we work with them to hold some focus groups with parents to work in a much more, two way communication and engagement with parents so that they feel they are being listened to. That is very clear in our inspection.

Sometimes the system can feel far too adversarial and we're very keen to break that down. We are committed to working much better with parents, we're not going to be able to solve every single case or meet every single parent's wishes but, we do need to better engage happy to give that assurance.

In terms of members engagement, I am very happy to see another of those sessions again in a few month's time and see where we go. We will have the Improvement Board first meeting next week and there will be opposition representation from the Labour group. We all need to have some oversight, and that's really what is required moving forward. If we're going to be serious about improving the services, we need to work constructively together and try and deliver that.”

5) Question from Councillor G Kinsella to Councillor N Hoy, Cabinet Member for Adult Care

“Following the proposed redesign of residential care and care homes, I am shocked to see Ada Belfield in Belper is one of the threatened homes. Ada Belfield, built at a cost of £11.5 million only four years ago, offers both high

quality dementia care and community support beds. The type of support offered is exactly the type of care justifying the redesign.

What on average will be the additional weekly care costs to service users and how many old and vulnerable people will be denied high quality, affordable care as a result of these cuts?"

Councillor Lewis's response in the absence of Councillor Hoy:

"I have had a few exchanges about this of late so it's important that I reiterate that until after the public consultation and analysis of all of the feedback and recommendations made to Cabinet, which will occur next year. I would encourage people to get involved in the various methods - questionnaires, virtual sessions, stakeholder engagement and consultation.

About Bennerley, how we work with VCs who are often guided by them and where you can support is why they're relooking at this particular care home. Regarding care, members of the cabinet approved providers. Anyone over this will not to any financial detriment to any existing resident in that home and their contribution will remain the same under the same arrangements as well. That's very clearly set out in the report that we had recently. Our pledges, we will work with the residents and their families and carers to support them through the process with a dedicated team of practitioners, but many residential care businesses within the private and voluntary and independent sector in all areas of the county, a full list of these were included."

Supplementary question from Councillor Kinsella:

"I think the concern is a lack of transparency. A lot of people engaged this week over a Facebook post - from that you'll see the depth of feeling. A lot of questions remain outstanding from a lot of people - questions and the issues around data have not been sustainable, not affordable, not being an area of not being a home of demand. I think people are just asking for the evidence for that. It would be good to see a breakdown of these particular care homes and I think that would help the consultation process and I think without that financial information, particularly accounts subject to closure or privatisation, I think there's a degree of distrust, so I would really welcome that information."

Councillor Lewis's response:

"I wholeheartedly agree with you. This finance group meeting regularly to interrogate capital finance is certainly an important element of that because we need to understand what a council homes budget is, how much council homes are overspending by and why that would be. We need to dig under the skin of that as well. We know all about the issues with regard to recruitment and retention. Not many people want to work in this area and that is a driver behind some of the issues we have for properly fully staffed care homes with a

lack of capacity in some and understanding of what particular needs are here and now. Whether it's in residential care or nursing care. We find that in some places it's more of a requirement for nursing care, less of a residential care, but looking after people in their own homes or other private sector placements are already available.

There are lots of factors that drive the cost pressures behind the loss of care homes and our care home placements. I'll be brutally honest I ask for information about care homes and I get the results on the tables that that mean nothing to me. I want to be able to read and understand and look at the table that tells me exactly what I need to know from a care home."

6) Question from Councillor P Rose to Councillor A Dale, Cabinet Member for Education

"I note that parents and guardians were asked to sort out school places for September 2025 by the end of October 2024. How does that work for those children with specific requirements and are subject to an 'Education, Health and Care plan?'"

Councillor A Dale's response:

"I believe you're referring to the secondary school admissions deadline. Admissions for children and young people's education, health and care plans will be arranged by a separate service under completely different legislation and therefore not through the general process. The service will contact parents and carers when their child is due to move from nursery to primary, primary and junior to secondary and secondary to post 16.

If parents and carers would like their child to move to a different school in year or outside the normal admission times, they should ask for an emergency review with their GP. Parents and carers have a legal right to request a school or college, whether that's mainstream, special or resource provision. Once a preference has been expressed, the local authority must consult with the school or college and must act unless it is unsuitable for the age of the child or incompatible with the efficient education of others or the efficient use of resources. For children with ADHD, they simply name the school or college and they will be transferred by the following national deadline of 15 February. For children transitioning from primary to junior or primary to secondary that's 31 March, for young people transitioning from secondary to post 16 application and for year 14."

Supplementary question from Councillor Rose:

"Thank you very much for the briefing yesterday, yourself and staff. I think it was very useful and obviously my question refers to that issue. Things have

overtaken what was going on and I appreciate your time and knowledge on the issue brought to you.

Can you be certain that staff are going to reconsider or review where there has been some controversy which may have resulted from the issues with the Ofsted report, etcetera, etcetera?"

Councillor Dale's response:

"I am very happy to review the case that you referred to me. I think the issue there was the family didn't feel they were offered any other choice and I find that very strange but absolutely we'll look at that. And in relation to the other inquiry, there's a general commitment we are seeking to improve. It's not going to be a quick process. It's going to be difficult and there are lots of challenges within the system but we are committed to working through them as we have within the past few years."

7) Question from Councillor A Clarke to Councillor N Hoy, Cabinet Member for Adult Care

"Can you tell me what assessment Derbyshire County Council has made of the impact on the health services delivered from The Jubilee Centre and Queen's Court and what steps the Council will be taking to ensure residents can still access those services which help prevent their health deteriorating."

Councillor Lewis's response in the absence of Councillor Hoy:

"All health and confirmed that this will need to deliver through a mixture of outpatient and community care. The urgent treatment centre and the longer programme and by a private. The council is committed to working closely with the NHS throughout the transition and beyond to assure local community support."

8) Question from Councillor J Dixon to Councillor S Spencer, Cabinet Member for Corporate Services and Budget

"In his report to Council in September 2023, the Leader didn't think the fact that:

- the Council was projected to overspend by £46m
- that his Cabinet was about to introduce emergency measures as part of a series of actions to mitigate that overspend avoid the issuing of a S114 notice

was sufficiently important to report to Members. Members only became aware of the Council's dire financial circumstances 20 minutes after the close of the Council Meeting.

This year's Q2 report is not scheduled to be published until later today. Yet again, Members are being kept in the dark and cannot ask questions on the Council's finances. In the absence of that Q2 report, could the Leader reassure Council that when that report is published at the rise of this meeting it will not contain another autumn surprise or further deterioration in the Council's finances?"

This question was withdrawn at the meeting.

9) Question from Councillor K Gillott to Councillor S Spencer, Cabinet Member for Corporate Services and Budget

"At the last Full Council meeting, the Deputy Leader of the Council refuted the suggestion that this administration had mismanaged the Council's finances. Does he stand by his comments?"

Councillor Spencer's response:

"Both budget papers that were published in February and next week's audit papers make quite clear that the cost of running this council is substantially more than most councils - anything between £10 and £20 million and that's been going on for many years. It's only now that we face a financial crisis that we're currently dealing with that emergency.

My understanding in best practice is that you don't do major modernization just to save money, because that often leads to mistakes and bad policy. It can be clearly unsettling for staff as well so is running this council for so many years, costing a good £10 million more than we actually have to pay each and every year is not financial mismanagement. What it is, is expensive.

It is unfortunate that our scheduled meeting falls in the general space that wasn't planned. It was the circumstances that always provided the budgetary cycle and it is unfortunate that they were published on the website just after the meeting. You're quite right, there is a there a cost differential involving this council compared to other councils in the country and as a consequence we are going to have to deal with that. And we have.

Let me explain how. You will be aware that we put cost control measures in place, which have been tightened considerably since the figures were presented. You will be aware if you have read the paper that we as authorities tend to procure the services being received very much focussed on the issue of the differential costs. We're also considering setting up a fiscal commission called Treasury Committee to go into the finer details of the issues related to more expensive provision in Derbyshire and elsewhere.

Many of the functions within the authority are costing us extra money, adult social care services and those services are statutory. I think the question is

our expectation of statutory and is our expectation of statutory the same as our neighbours' expectation. The reason I say that is our services here in Derbyshire costs very largely 14%. There are questions to be asked why? I will give you an assurance today that we will find out why, and we will take action to address it. And I can also tell you that with regard to the 14%, the cost is higher than the authorities we need to look very closely about what is our delivery model. If, after the investigations we find what we need to make changes in our delivery model, we will make them. Hopefully with your support, we will get this money back where it needs to be.

That does not get away from the fact that it is a huge challenge. And I just want to assure the essence of our staffing Council for the efforts I have made with regard to the safety, not just the performance monitoring of the budget, but there are some considerable success stories and performance data that shows vast swathes of the organisation who have met their savings targets and the drivers of that intensive pressure above other social care and children's services. In one case, 15% increase.

How do we tackle the issue? Work has been carried out over the last few years and over the coming weeks, we're going to find out what that differential is and we are going to take action."

10) Question from Councillor R George to Councillor A Dale, Cabinet Member for Education

"Would the Cabinet member like to give their reflections on the recently released Ofsted report on SEND?"

Councillor Dale's response:

"I've spoken to 4 or 5 different media outlets over the past week or so, quoting several different articles and features over the past week. I think my reflection would be pretty well documented already. For the avoidance of any doubt, I want to once again offer my apology on behalf of the partnership to any families affected by the issues raised. We fully accept the findings of the report, and we acknowledge that the services are not free and we recognise many of the issues you highlighted some time ago.

We've taken a number of actions over the past couple of years to try and improve our services, including restructuring of the teams, giving them more clearly defined roles, investing in the empowered individual educational psychologist and admin support, improving processes which has led to improvements in timeliness. We re-established the executive board with the New Education Partnership to create a new secretary network. We introduced panel funding, which replaced Grip funding. We've done a restructure of our support service. We introduced a new hub system and committed £11 million towards national school expansion.

Our efforts are starting to show some improvements in some areas, but there is clearly a long way to go before we will get to where we need to be and we absolutely do need to redouble our efforts to improve more quickly but, we need to be honest in acknowledging that many of the issues that have already said will not be resolved overnight. It's essential that the improvement work we are absolutely committed to doing translates into an improvement in the experiences and outcome of children and young people. It's a partnership responsibility, as you know, and we're committed to working across the partnership with schools, the public, private and voluntary sector colleagues and most importantly, children and families. We do have a shared commitment to continue to strive to ensure all our children have the best possible start in life, whatever their challenges and abilities.

I want to recognise clearly that all elected members have an important role to play in this work. And while I acknowledge the challenges we are vitally important. I hope that the partnership can rely on all of us across the chamber, regardless of identity politics, to work constructively together with the partnership to deliver the improvements that we all want to see for our residents.”

Supplementary question from Councillor George:

“There's no denying that the SEND report is damning even in its measured language. They set out many failures in leadership and in management. Most of the recommendations relate to Derbyshire County Council as opposed to our health partners and the majority of what is recommended is set out at the seat of the county council, where leadership has been chaotic in recent years.

As the report sets out, the one person who has been steadily at the helm for the last almost eight years is Councillor Dale, as the cabinet member and has overseen all of these management and structural failings identified by Ofsted. I wondered if the cabinet member wanted to use today to make clear, without any equivocation, his personal responsibility for creating a system that is meant, as Ofsted said, too many children and young people with SEND, their needs have not been met for too long and whether he has considered his position?”

Councillor Dale's response:

“The majority of those recommendations relating to Derbyshire County Council relate to partnerships and a lack of joint partnership working. I think most of the recommendations are about the whole partnership. Clearly the report has been extremely sobering and it's concerning that Ofsted highlighted some of the issues that we've seen. I think most of us know that there have been problems over the past three years in particular and demand has really shot up. We've seen a doubling in the past seven years, a doubling of

requests in the past three years alone so it's unsurprising that the system is under a huge amount of pressure. We have been taking a number of actions to try and improve this.

I recognise that you may very well want me to resign, but my focus is on continuing to deliver those improvements and working across the partnership, hopefully with all members here present today, to try and ensure that we do improve those services. I'm focusing on getting on with the job, that Labour have got absolutely no plan for what they would do differently. The most they can do is tell us to do the things that we're already doing as part of the improvement plan, and I think the reality is the Labour Party don't actually really care about this issue. All you really care about is using our most vulnerable children as a political football to try and score points."

11) Question from Councillor J Dixon to Councillor N Hoy, Cabinet Member for Adult Care

"Could the Cabinet Member inform Council how much money has been spent in renovating, refitting and improving the following council homes since 2021: Ada Belfield, Briar Close, Castle Court, The Grange, The Leys, New Bassett House, Rowthorne and Thomas College?"

Councillor Lewis's response in the absence of Councillor Hoy:

"The short answer is overall spend on the care homes is £12,076,000. I will send you the table with the breakdown information."

12) Question from Councillor C Dale, Councillor C Cupit, Cabinet Member for Highways Assets and Transport

"The County Council's Parking Enforcement team, under a Traffic Regulation Order, have recently been issuing parking tickets on the Rear Service Road to Patchwork Row, Shirebrook. The Rear Service Road is an unadopted road and the land is privately owned by all the properties on Patchwork Row and Victoria Street, as it originally formed part of their rear gardens. Have the parking enforcement team obtained consent from the owners to issue parking tickets on this privately owned land?"

Councillor Cupit's response:

"We are aware of the issues and the concerns on this site. There are still some legal checks underway to be done and some ambiguities in relation to the TRO so if it's okay with the feedback in more detail over the coming week.

Supplementary question from Councillor C Dale:

“I'll just return to the rear service road where traffic shouldn't be there – it's a town centre. Last year, businesses were concerned because cars were blocking them. We've got the funeral directors that park the vehicles. We've got food shops, takeaways and of course, the lorries go up and deliver. Can you give some reassurance that if they haven't got the consent, they will obtain the consent of the owner so they can carry on supporting the businesses?”

Councillor Cupit's response:

“Having been out with the parking enforcement officers quite recently on a couple of occasions, I appreciate the complexities of what they deal with and particularly the town centre parking places. We'll absolutely take that back because I do understand that the enforcement took place because of requests from both businesses and residents, we just need to get to the bottom of the TRO process and then I will bring back to you everything we have.”