

MINUTES of the meeting of the **DERBYSHIRE COUNTY COUNCIL** held on 6 February 2019 at County Hall, Matlock

PRESENT

Councillor G Wharmby (In the Chair)

Councillors T Ainsworth, D Allen, R Ashton, N Atkin, Mrs E Atkins, S A Bambrick, N Barker, Mrs S L Blank, J Boulton, S Brittain, S Bull, Mrs S Burfoot, K Buttery, Mrs D W E Charles, Mrs L M Chilton, J A Coyle, A Dale, Mrs C Dale, J E Dixon, R Flatley, M Ford, Mrs A Foster, Mrs A Fox, J A Frudd, K Gillott, A Griffiths, Mrs L Grooby, Mrs C A Hart, G Hickton, R Iliffe, Mrs J M Innes, T A Kemp, T King, B Lewis, W Major, P Makin, S Marshall-Clarke, D McGregor, R Mihaly, C R Moesby, P Murray, G Musson, R A Parkinson, Mrs J E Patten, J Perkins, Mrs I Ratcliffe, C Short, P J Smith, S A Spencer, A Stevenson, S Swann, D H Taylor, Mrs J A Twigg, M Wall, Ms A Western, Mrs J Wharmby, Ms B Woods and B Wright.

01/19 **APOLOGIES FOR ABSENCE** Apologies for absence were submitted on behalf of Councillors K S Athwal, J Atkin, B Bingham, Mrs H Elliott and B Ridgway.

02/19 **DECLARATIONS OF INTEREST** The Chairman reported that in respect of the report relating to the Revenue Budget, minute 09/19 refers, 44 County Councillors were dual hatted and there could be a potential conflict, particularly in respect of the Council Tax element.

The Director of Legal Services had discussed the issue with Councillor C Short, Chairman of the Standards Committee, and it had been agreed to grant a dispensation to all Elected Members to enable everyone to participate in the anticipated debate.

03/19 **CHAIRMAN'S ANNOUNCEMENTS** The Chairman invited all to stand to observe a minute's silence for the death of former County Councillor Alan Bemrose and tributes were received.

04/19 **MINUTES OF THE ORDINARY COUNCIL MEETING** On the motion of Councillor G Wharmby, duly seconded,

RESOLVED that the minutes of the meeting of the Council held on 5 December 2018 be confirmed as a correct record.

05/19 **REPORT OF THE LEADER** Councillor B Lewis, Leader of the Council, referred to the meeting's full agenda and made specific reference to the items in relation to the budget.

06/19 **PUBLIC QUESTIONS**

(1) Question from Sharon Davis to Councillor A Dale, Cabinet Member for Young People

In Derbyshire, some schools welcome SEN children and get a good reputation for supporting them. Thus, they have more SEN children than the average school. The notional SEN funding is worked out according to pupil numbers and local deprivation factors. However it does not take into account the specific number of pupils on an Ehcp at each school. A school with 300 pupils would get the same funding whether they had 1 pupil with an Ehcp or 10 pupils with an Ehcp. How is Derbyshire county council going to compensate schools (and SEN children) who are financially disadvantaged due to this notional formula?

Councillor Dale responded as follows:

Under the National Funding Formula schools' delegated budgets include low prior attainment funding to support children with additional educational needs. The low prior attainment funding helps schools to meet those additional costs of supporting individual pupils with additional educational needs, including those in receipt of graduated response and Education Health and Care Plan locations up to a threshold of £6,000 per pupil. Additional costs over and above the £6,000 are normally met from the high needs' block of the Dedicated Schools Grant which is held on behalf of schools by the local authority.

Schools' low prior attainment counts include children who have an Education Health and Care Plan or attract funding by the Council's graduated response process, so in the example that you quoted a school with ten children on an Education Health and Care Plan would receive more funding than a school with only one.

I also want to make clear that the low prior attainment funding in primary schools' budgets in Derbyshire has risen significantly in recent years from just over £1m in 2017-18 to £15.2m in 2019-20. Nevertheless we do recognise that some schools have a high proportion of children with additional educational needs and therefore have the challenge of finding multiple amounts of £6,000 whilst also dealing with the day-to-day pressures in the schools' budget and therefore, a modest contingency fund of £300,000 in 2018-19 is held to help with this.

In June 2018 the Schools Forum, which is independent of the Council, agreed a formulaic approach to distributing £250,000 of this contingency fund so that roughly 10% of schools with the highest proportion of children with an Education Health and Care Plan or graduated response allocation received additional support in 2018-19. Again in the example you quoted the school with ten children with Education Health and Care Plans out of 300 would qualify for support whereas a school with only one would not. Outside this mechanism, in exceptional circumstances, a school can apply to the Authority for additional support. A range of factors would be considered to determine any level of support that we might offer.

As you know I met with you and the head teacher at Brampton Primary School about these issues and I do understand your concerns that you are in a uniquely challenging situation due to your very good reputation for children with SEND and you feel you have become somewhat of a victim of your own success with that. Following our meeting I have asked officers to proceed with the team around the school process so that we can get a better understanding of some of the challenges within your budget and other factors which Mr Parkinson and I discussed when we met. Once this has taken place we will gladly consider whether there are any exceptional circumstances that could apply and whether we can offer additional support.

The following supplementary question was asked:

I am a governor at Brampton Primary School and the parent of a child, as I have just said, who has asymmetric quadriplegic cerebral palsy. He is a full-time wheelchair user. His current Education Health and Care Plan states he is to receive 35 hours per week TA hours. Despite the fact that the school does not receive the correct funding to enable this, the school has an obligation to meet his needs.

The reality of this direct from the chalk face is that schools are making teaching assistants and teachers redundant because Derbyshire's notational SEN funding does not take into account the number of children on Education Health and Care Plans. Joshua's school is in Chesterfield yet it has SEN children who travel from Bolsover, Belper, Matlock. This is because the school has an inclusive philosophy as well as expertise. However, the school is financially penalised for this. DCC are slowly eroding this school's inclusive philosophy by failing to adequately fund SEN children.

The Government Minister in Parliament to Toby Perkins in January said:

“Local Authorities must secure the provision specified in a child or young persons’ EHC plan. Where this requires the local authority to provide additional top-up funding an agreement should be in place between the local authority and the school that confirms the amount of top-up funding to be paid.”

In the light of the comments made by the Education Minister what additional top-up funding agreement does DCC intend to put in place with primary schools which have a high number of SEN children? Do you think it is fair and acceptable for Derbyshire County Council to give schools enough money to specifically cover the cost of teaching SEN children? Do you agree if schools don’t, schools will be unable to afford SEN children and mainstream schools will discourage them from attending thus resulting in less children getting places in mainstream schools?

Councillor Dale responded to the supplementary question as follows:

Firstly, the issue around your son’s case, obviously it wouldn’t be appropriate for me to discuss that.

This is a very public forum. I am happy to meet you outside this meeting. I know you have been communicating with senior officers and I am happy to meet to discuss this further but I do not feel this is the appropriate place.

In terms of the additional funding for pupils with SEND the legislation is quite clear, that schools are responsible for that first £6,000

What I would say to you on that basis is the low prior payment funding that I talked about to begin with has seen a significant uplift over the past two years.

In Brampton the effect last year was £46,500 in addition. However, there is an issue with a cap on gains and that is an issue which did offset against that. This year we have raised the cap on gains from 3% to 4% and that should result in Brampton receiving an additional £40,500 again, which is equivalent to a 3.5% increase. I do recognise what you are saying and Mr Parkinson was extremely explicit about the challenges of providing so many amounts of that initial £6,000. I do understand those points and what I would say is please allow us to do that team around the school process so we can really get to grips with the situation at Brampton and see what we can do to help.

(2) Question from Gill Scott to Councillor B Lewis, Cabinet Member for Strategic Leadership, Culture and Tourism

Will the council explain in detail the criteria that will be used, and list the checks and measures put in place, to guarantee that whichever groups apply to manage the twenty libraries targeted as Community Managed Libraries are doing so on behalf of the community to provide a long term, continuous and committed service (i.e. beyond five years), which includes the free lending of resources and access to information, for all ages, and welcomes all local residents as equals, whether users or volunteers, and that the primary motive of applicants is not to expand a business and make a profit and then move on to leave our villages even more deprived of free community provision?

Councillor Lewis responded as follows:

Uniquely the 20 libraries that are part of the Community Managed Libraries' programme will remain part of the statutory offer of the County Council and this is something I really want to underline. Notably this line from the Public Libraries and Museums Act 1964, section 7, states:

“It shall be the duty of every Library Authority to provide a comprehensive and efficient library service for all persons desiring to make use thereof.”

I also want to reply we won't be shirking that responsibility. The new strategy for the Library Service makes it quite clear that every Community Managed Library will still be part of Derbyshire's statutory service provision. Our strategy also makes clear the level of service that will be available in all our libraries and a primary focus for the Council will be on ensuring that the offer to any individual Community Managed Library meets the standards specified in the strategy with readily accessible support available for all of them from Derbyshire library staff. Community Managed Libraries will also have the opportunity to build upon the standards of provision outlined in the strategy and, if they so choose, to exceed those standards.

This means, of course, that we want to work directly with those community groups within a community that may want to run those services. The range of buildings and premises that libraries occupy are mixed, some belong to the County Council and some are within buildings owned by others such as Parish Councils (a classic case in point is in Wingerworth in my division) so where those libraries occupy a County Council building they are very likely to have retained ownership where that is the desire of a Community Managed Library group. This

means like any good landlord we will look after the roof and the walls of those buildings so long as we retain that ownership.

We are also making it very clear that all Community Managed Libraries must provide free and open access to all users to books, information and ICT and they must adhere to all our existing and future Library Service policies. Any group who takes over the running of a library will have to agree to a Service Level Agreement which will detail exactly what they can expect from Derbyshire County Council and will also explain in detail what will be expected from them in return.

In the next few weeks the Library Service will be publishing information for interested groups and other organisations on the Council's website. Anyone who is interested in taking responsibility for the running of a local library will need to complete a two phase application process. The first part of that is to ascertain the degree of interest in the local area, receive groups' and organisations' initial ideas for a library, how they intend to deliver those services, and what support they might need from the County Council or even independent support perhaps like the CBS or CAB and social enterprises.

The second stage will involve these groups preparing a business case which will be evaluated not just on their plans to run and finance a library but also how the groups have and will engage with the local community and tailor their services to specific needs. We will also continue to work tirelessly with groups who will provide support and advice to ensure that every library succeeds, including financial support which we have extended for five years, as you have pointed out, following the public consultation. The success of the Community Managed Library model across the country demonstrates there is a robust and well proven way to deliver community focused library services but I have no hesitation in giving my support to this operating model and I certainly hope that everyone else will join me in that support. Thank you.

The following supplementary question was asked.

So with reference to the groups who are going to apply to manage the 20 libraries does the Council believe that as part of the Stage 1 consultation they provided clear and readily accessible information on the ethos, capacity and financial resources of these groups and allowed sufficient discussion of this and alternative options, thus fully complying with Gunning Principle 2 which states the consulting bodies must give, and I quote: "Sufficient reasons for proposals to permit intelligent consideration" and that they should heed legal advice such as that given by the law firm David Wolfe to the We Love Higham Hill Library Group of residents in November 2016 in their challenge to improve the

library consultation process conducted by the London Borough of Waltham Forest and their advice was “basic fairness may require it...” the consulting body “to re-consult or consult afresh.”

I can only find one reference to the fact that a community group would run a library, thus implying one community group to one library. That is on page 5 of Derbyshire Public Service Strategy Libraries for Derbyshire. Elsewhere vague terms such as “community led”, “community groups” and “volunteer managed” are used which I don’t think gives sufficient clarity to permit “intelligent consideration” nor allow room for debate and alternative options, so will you re-consult?

Councillor Lewis responded to the supplementary question as follows:

The short answer to that is no because although you point out the various legal cases, which I am familiar greatly with one of those, they don’t really apply in this particular instance. What we were doing was consulting with communities on the concept of Community Managed Libraries, we were not at that point seeking representations from any groups or community groups or anything like that.

This second stage, the phase we are in now, is where we have the conversations with the communities, with potential groups. What we hope we will get out of that are expressions of interest in terms of coming forward to take on and manage those particular libraries. In those particular instances we will then work closely with those groups to ensure that they have sufficient capacity; that they have the financing etc. to start to take on those services and that over a five year period of time we support them as robustly as we can.

(3) Question from Graham Heasman to Councillor S A Spencer, Cabinet Member for Highways, Transport and Infrastructure

Week by week leaks and announcements from within HS2 Ltd and the Department for Transport show there is a dawning realisation that the whole HS2 rail project is highly unlikely to be delivered on time (2033) or on budget (£56 billion).

As savings are sought, we hear that trains are likely to run at reduced speeds, that there is likely to be a reduction from 18 to 14 trains per hour, that these trains may only terminate at Old Oak Common in London rather than Euston, the track bed may be reduced to a ‘ballast’ track bed instead of concrete and that they are considering powering the trains by wind turbines along the route.

All these are being considered in a desperate attempt to cut costs, and there is concern that even larger savings will have to be made on the northern sections of the project.

If and when construction starts in Derbyshire, what assurances will the County Council be seeking from HS2 and the Department for Transport that council tax payers will not be financing any of the costs and shortfalls of its proposals for the County and what has it cost us to date?

Councillor Spencer responded as follows:

For the sake of sounding repetitive, Mr Heaseman, HS2 is a Government led and Government funded project, which is the answer you receive on every occasion so I have to be consistent in that position. HS2 is a project which will be delivered and paid for by Government using funding through general taxation. Derbyshire County Council has made no payments to HS2 to-date and has no plans to form any part of the infrastructure directly linked to the delivery of the new rail line. Derbyshire County Council has also made clear in its response to the recent consultation on the HS2 Working Draft Environmental Statement December 2018 (as you know that was an 1100 page consultation which was carried out very rapidly considering the timetable) that the Authority is unwilling to take responsibility for any of the assets which the project will deliver such as new roadside infrastructure or drainage, balancing ponds, without considerable new funding to help pay for the ongoing maintenance of those assets.

The following supplementary question was asked.

As some Council members will be aware it is estimated that HS2 will require 67% of the electricity that the current rail network uses. This is from a KPMG report released under a Freedom of Information numbered 487395. This set against the background of the National Grid struggling to keep up with total UK demand it is reported that HS2 Ltd are considering erecting wind turbines along the proposed trackside to provide the massive extra power required for these trains. Why this was not considered in the initial planning by HS2 remains a mystery and raises questions about the planners of the project.

What is, and would be, Derbyshire County Council's policy on this proposed proliferation of wind turbines along the route, especially when considering this adding to the blight on Derbyshire communities and landscapes such as viaducts, excavation, banking, high level powered gantries and do they hold any powers to limit or restrict the siting of these turbines which have always been a contentious issue with many of the public and local authorities?

Councillor Spencer responded to the supplementary question as follows:

As I am sure you are fully aware we have made considerable strides in forming our new Mitigation Board and we welcome the participation of the local authorities, particularly the Planning Authorities in that Mitigation Board. I think every district that is directly affected by the provision of HS2 across the East Midlands is directly represented on that Mitigation Board and I would assume, well I wouldn't assume I would expect that if those methods of generating electricity were provided in any format they will go through the traditional planning mechanisms that we have in place for any feature of a similar like that we have already here in Derbyshire. I can only speak as I see it at this moment in time. I am not aware of any dispensation being given to HS2. I can't imagine for any reason that they should and I would expect them to go through the traditional mechanisms of planning consent.

(4) Question from Tony Mellors to Councillor S A Spencer, Cabinet Member for Highways, Transport and Infrastructure

Because of decreasing Benefit versus Cost there are increasing calls for HS2 to be cancelled, calls not only by the public and press, but by senior MPs and Ministers, including Andrea Leadsom, Liz Truss, Boris Johnson, Michael Gove, and Jacob Rees Mogg.

On 24th of January a letter was sent to the Prime Minister, and leaders of 3 opposition parties urging them to commit to building HS2 in its entirety including Phase 2b to Leeds and the Blackwell Spur. Your Strategic Director for Economy, Transport and Infrastructure co-signed that letter, presumably on behalf of DCC.

With the NHS, Social Care, Schools and Councils in desperate need of money, does DCC believe that HS2 should be built in its entirety no matter what the cost and the negative impact on Derbyshire society?

Councillor Spencer responded as follows:

I am going to be repetitive again, Mr Mellors, as you would expect. HS2 is a Government led, Government funded project.

On the 24 January the Secretary of State made it clear that the Government was still committed to delivering the full HS2 network, including Phase 2b, the line from Birmingham to Leeds which runs through Derbyshire. It would appear that the Government has made this announcement in full understanding of the national expenditure

commitments such as social care, health and policing. With this in mind the County Council is planning its activity accordingly providing responses to consultations and liaising with the HS2 officers to not only mitigate the negative impacts of the route proposed but to ensure that the residents and some businesses are able to take full advantage of the opportunities available. This includes the growth opportunities at the proposed HS2 stations in Chesterfield and Toton and the infrastructure maintenance depot at Staveley. There are also a number of potential opportunities for the various rail industries and rolling stock industries across Derbyshire.

Work on Phase 1 of the project from London to Birmingham has already begun and it is anticipated that parliamentary process will allow Phase 2b to be constructed and will begin in 2020. As I have mentioned previously, if the Government intends to proceed with HS2 then the stated position of Derbyshire County Council is to maximise the benefits of the process and deal with all the mitigation issues as best we can.

The following supplementary question was asked:

I would like to thank DCC for their thorough examination and extensive response to the consultation documents in December 2018. In my opinion DCC's response clearly identified that the information in the documents gave insufficient detail to allow a genuine feedback to the consultation. Do you think HS2 and the DfT are listening or was it a box ticking exercise for them?

Councillor Spencer responded to the supplementary question as follows:

That is a very subjective question, Mr Mellors, but we did go to some length with regard to the consultation process and I think the document we presented to HS2 Ltd and to the Secretary of State was comprehensive, detailed and highlights some of the issues you have just articulated. I am very confident the way in which we dealt with the process and the way in which the officers formulated that response in such a small timeframe given the size of the 1100 pages we had to wade our way through highlighted particular issues, as you have already stated. I welcome the contribution that was made from District Council colleagues and other representative bodies across the East Midlands as a whole, North West Leicestershire, Nottinghamshire, so on and so forth. We did go to some length to go into an awful lot of detail about the issues and as I have continually said throughout this process the essential thing is that we are seeing a credible body to make representations to HS2 Ltd before we get to the final stage of petitioning. If we can resolve and address the issues that are in that

document that will be of huge benefit to the residents who are directly affected but we will continue to work, as we have been working in the past, to achieve that. Of course if we cannot achieve that we will then go to the petitioning stage of the process with the processes that will take place in Parliament but please be assured, Mr Mellors, Derbyshire County Council under my chairmanship of the Mitigation Board is doing everything it can to take seriously the representations that are received to this Authority and others across the East Midlands and present an holistic, a coherent case to HS2 to allow them to address it.

09/19 **PETITIONS** There were none received.

10/19 **BUDGET MONITORING 2018-19 (AS AT 31 OCTOBER 2018)** The Director of Finance and ICT presented a report which provided Council with an update of the Revenue Budget position for 2018-19 as at 31 October 2018.

The report summarised the controllable budget position by Cabinet Member Portfolios as at 31 October 2018. In addition to this report, further reports would also be considered at Cabinet Member meetings, the Audit Committee and Cabinet, in accordance with the Budget Monitoring Policy and Financial Regulations.

The projected outturn compared to controllable budget was summarised in the report and this included the use of one-off funding to support the Highways, Transport and Infrastructure portfolio.

It was reported that a portfolio overspend of £0.726m was forecast, after the use of £2.110m of Earmarked Reserves to support the Highways, Transport and Infrastructure portfolio. Any underspends in 2018-19 would be used to manage the budget in 2019-20.

The Debt Charges budget was projected to underspend by £1.721m. This was based on forecast interest payments, anticipated Capital Financing Requirement (CFR), a Minimum Revenue Provision (MRP) of 2.5% in keeping with the revised policy reported to Cabinet on 22 November 2016 and a £10.000mm one-off reduction in the provision to recover 'overpayments' made in previous years. This one-off reduction in MRP was reported to Council on 7 February 2018.

Interest on balances was estimated to break even by the year-end and, whilst the interest base rate remained at 0.75%, the Council utilised a range of investments to maximise its income.

Details of the Council's Earmarked Reserves balances as at 31 October 2018 were appended to the report. It was noted that the recent review of the Council's reserves' balances had been reported to Cabinet

on 20 September 2018.

On the motion of Councillor B Lewis, duly seconded;

RESOLVED to note the 2018-19 budget monitoring position as at 31 October 2018.

11/19 **BUDGET CONSULTATION RESULTS** The Director of Finance and ICT presented a report which enabled Council to consider the outcome of the Council's budget consultation exercises when formulating its budgetary proposals to Council in relation to the Revenue Budget for 2019-20.

The report contained a detailed analysis of the consultation results and themes that had arisen from the comments that participants had contributed during the process.

On the motion of Councillor B Lewis, duly seconded;

RESOLVED that the views of the consultation respondents be taken into account by Council when formulating its proposals to Full Council regarding the Revenue Budget for 2019-20.

12/19 **REVENUE BUDGET REPORT 2019-20** The Director of Finance and ICT reported to Council on proposals regarding the Revenue Budget and Council Tax for 2019-20.

The report presented detail in respect of the 2018-19 budget, the Autumn Statement 2018, the Provisional Local Government Finance Settlement, Council Tax, Business Rates, price increases, Corporate Budgets, budget cuts targets, service pressures, statutory requirements of the Local Government Act 2003, the Five Year Financial Plan and consultation.

When setting the budget, the Council must be mindful of the potential impact on service users and therefore the consultation exercises undertaken in the preparation of the 2019-20 budget were relevant in this respect. Section 149 of The Equality Act 2010 imposed an obligation on Members to have due regard to protecting and promoting the welfare and interests of persons who shared a relevant protected characteristic (age; disability; gender re-assignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex and sexual orientation).

It was moved by Councillor B Lewis, duly seconded, that the recommendations set out at (i) to (xi) in the report be approved.

The report was debated.

Councillor A Western moved the following amendment to recommendation reference (viii), the addition of “that the Director reports back to all councillors after each Cabinet meeting detailing progress towards the six month plan”

The amendment was duly seconded, put to the vote and declared LOST.

The Chair reminded Council that the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014, made it mandatory for councils to have recorded votes on the issue of precepts.

RESOLVED that Council:

- (i) notes the details of the Autumn Statement 2018 and Provisional Local Government Finance Settlement as outlined in sections (b) and (c) of the report;
- (ii) notes the Government’s expectations about Council Tax levels for 2019-20 in section (d);
- (iii) approves the precepts as outlined in section (d) and Appendix Three;
- (iv) approves that billing authorities are informed of Council Tax levels arising from the budget proposals as outlined in section (d) and Appendix Three;
- (v) approves the contingency to cover non-standard inflation as outlined in section (f). The contingency to be allocated by the Director of Finance and ICT once non-standard inflation has been agreed;
- (vi) approves the service pressure items identified in section (g) and Appendix Four;
- (vii) approves the level and allocation of budget savings as outlined in section (h) and Appendix Five;
- (viii) notes the Director of Finance and ICT’s comments about the robustness of the estimates and adequacy of the reserves as outlined in section (i);
- (ix) notes the details of the Council’s consultation activity as outlined in section (k)

- (x) approves the Council Tax requirement of £329.430m which is calculated as follows:

	£
Budget Before Pressures and Budget Reductions	495,895,423
Plus Service Pressures – on-going	17,168,561
Plus Adult Social Care Precept	6,290,323
Plus Service Pressures - one-off	12,327,000
Less Budget Reductions	-13,393,000
Use of Contingency Budget	1,000,000
Increase in Debt Charges	2,000,000
Reduction to Risk Management Budget	-756,529
Increase in Interest Receipts	-1,000,000
Net Budget Requirement	519,531,778
Less Top-Up	-93,370,422
Less Business Rates	-19,194,534
Less Revenue Support Grant	-13,517,274
Less New Homes Bonus	-2,097,996
Less General Grant	-41,955,307
Less PFI Grant	-10,503,833
Less Earmarked Reserves	-9,462,846
Balance to be met from Council Tax	329,429,566

- (xi) authorises the Director of Finance and ICT to allocate cash limits amongst Cabinet portfolios; Strategic Directors to then report to Cabinet on the revised service plans for 2019-20.

A recorded vote was taken and recorded as follows:

For the recommendation (35) Councillors T Ainsworth, R Ashton, N Atkin, J Boulton, S Bull, K Buttery, Mrs L Chilton, A Dale, R Flatley, M Ford, Mrs A Foster, Mrs A Fox, A Griffiths, Mrs L Grooby, Mrs C A Hart, G Hickton, R Iliffe, T A Kemp, T King, B Lewis, W Major, P Makin, P Murray, G Musson, R A Parkinson, Mrs J E Patten, J Perkins, C Short, S A Spencer, A Stevenson, S Swann, D H Taylor, Mrs J A Twigg, G Wharmby and Mrs J Wharmby.

Against the recommendation (23) Councillors D Allen, Mrs E Atkins, S A Bambrick, N Barker, Mrs S L Blank, S Brittain, Mrs S Burfoot, J A Coyle, Mrs C Dale, J E Dixon, J A Frudd, K Gillott, Mrs J M

Innes, S Marshall-Clarke, D McGregor, R Mihaly, C R Moesby, Mrs I Ratcliffe, P J Smith, M Wall, Ms A Western, Ms R Woods and B Wright.

13/19 CAPITAL PROGRAMME APPROVALS AND TREASURY MANAGEMENT AND CAPITAL STRATEGIES

The Director of Finance and ICT presented a report which sought approval for proposals relating to the capital starts programme for 2019-20 and the Treasury Management, Investment and Capital Strategies.

In line with previous years, the proposed new Capital Starts Programme for 2019-20 had been evaluated and it was recommended to proceed with a new borrowing of £14.441m (Excluding invest to save schemes). Detailed proposals were set out in Appendix 1 of the report.

The report also included:

- The Treasury Management Report for 2019-20
- The Investment Strategy Report for 2019-20 and
- The Capital Strategy
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On the motion of Councillor B Lewis, duly seconded,

RESOLVED to (1) approve the 2019-20 Capital Starts Programme as set out in Appendix 1 of the report;

(2) adopt the Treasury Management Policy as set out in Appendix 2 of the report;

(3) adopt the Investment Strategy set out in Appendix 3 of the report and;

(4) adopt the Capital Strategy set out in Appendix 4 of the report.

14/19 REVISED FINANCIAL REGULATIONS AND STANDING ORDERS RELATING TO CONTRACTS

The Director of Finance and ICT presented a report that sought approval for the adoption of revised financial Regulations and Standing Orders relating to Contracts.

A detailed revision of the Council's Financial Regulations had taken place in 2014 with a further review undertaken during the latter part of 2017.

It had been recognised that the changes previously made were working well, however, it was felt appropriate to revisit and review them, particularly in light of the establishment of the 'Enterprising Council' approach. Whilst maintaining sound arrangements for internal control, the emphasis had been to examine the areas where routine decisions

could be delegated to officers to reduce the number of reports taken to Cabinet and Cabinet portfolio member meetings as well as addressing the need for Departments to be able to be more responsive when making financial and procurement decisions.

Due to the close alignment between the Council's financial Regulations and the legal and governance requirements concerning the creation and letting of contracts, it had been considered appropriate to review the Standing Orders relating to Contracts. These had been redrafted and developed to include a General section, a Competition section and a Contracts section.

These changes would be underpinned by revised schemes of Departmental financial delegations which would set out the requirements to ensure compliance with the revised Financial Regulations and Standing Orders in relation to Contracts.

Key areas that had been identified and were being recommended for change were detailed in the report and the revised Financial Regulations and Standing Orders relating to Contracts were appended to the report.

On the motion of Councillor B Lewis, duly seconded,

RESOLVED to approve the revised Financial Regulations and Standing Orders relating to Contracts and that the changes come into force from 1 April 2019.

15/19 **REVISIONS TO THE CONSTITUTION** The Director of Legal Services and Monitoring Officer and The Director of Finance and ICT and Section 151 Officer presented a report which sought approval for the revisions to the council's Constitution as recommended by the Standards Committee at its meeting on 10th January 2019.

With the support of the Standards Committee, a review of the council's constitution had been undertaken.

The revised Constitution focused on streamlining the Council's decision making principles, whilst maintaining a robust governance framework enabling the delivery of a commitment to integrity and transparency.

It was proposed that the revised Constitution would be divided into two parts; Articles which set out the overarching functions and decision making framework and Appendices which contained the details as to how the Articles would be carried out.

As detailed within the report, the Improvement and Scrutiny arrangements and the members' code of conduct remain unchanged at this time. These were areas which required further work and it was proposed that these along with any other changes would be considered by a further meeting of the Standards Committee and then reported to a future meeting of the Council.

Councillor P J Smith proposed a motion to defer consideration of this report. The motion was duly seconded, voted upon and declared to be LOST.

On the motion of Councillor B Lewis, duly seconded,

RESOLVED to (1) approve the proposed changes to the Council's Constitution as detailed in the Articles and Appendices attached to the report to come into effect following the 2019 Council Annual General Meeting in May 2019;

(2) note that meetings of the Standards Committee will consider outstanding issues relating to the Constitution as detailed within the report and make recommendations to a future meeting of the Council.

16/19 STRATEGIC DIRECTOR, ADULT CARE AND HEALTH – APPROVAL OF TEMPORARY APPOINTMENT The Strategic Director for Commissioning, Communities and Policy and Head of Paid Service sought ratification of the temporary appointment of Simon Stevens to the post of Strategic Director for Adult Social Care and Health with effect from 21 January 2019.

On the motion of Councillor B Lewis, duly seconded,

RESOLVED to ratify the temporary appointment of Simon Stevens to the post of Strategic Director, Adult Social Care and Health with effect from 21 January 2019.

17/19 PAY POLICY STATEMENT 2019 The Strategic Director for Commissioning, Communities and Policy and Head of Paid Service presented a report which sought formal approval of the Pay Policy Statement for 2019 and for its publication on the Council's website on 1 April 2019.

The Localism Act required local authorities to produce a pay policy statement for each financial year. Associated guidance also recommends that the pay multiple was included to demonstrate the relationship between remuneration for chief officers and other employees.

On the motion of Councillor B Lewis, duly seconded;

RESOLVED to approve the Pay Policy Statement for the financial year commencing 1 April 2019 and for its publication on the Council's website.

18/19 **WAIVER OF THE CALL-IN PROVISIONS** The Director of Legal Services and Monitoring Officer presented a report on decisions that had been taken by Cabinet or a Cabinet Member since the last meeting where the call-in provisions had been waived due to their urgent nature.

On the motion of Councillor B Lewis, duly seconded,

RESOLVED to note the report.

19/19 **REPORT OF CABINET AND MEMBERS' QUESTIONS ON THE REPORT** Councillor B Lewis, Leader of the Council, presented a report on the decisions that had been taken at meetings of Cabinet held on 29 November 2018, 20 December 2018 and 24 January 2019.

There were no questions raised on the report.

On the motion of Councillor B Lewis, duly seconded,

RESOLVED to note the report.

20/19 **COUNCILLOR QUESTIONS**

(a) Question from Councillor Western for Councillor Lewis, Cabinet Member for Strategic Leadership, Culture and Tourism

What plans are in place or in development for the impact in Derbyshire of Brexit?

Councillor Lewis responded to the question as follows:

I do actually welcome that question because it gives me an opportunity to provide a little bit of clarity about what preparations are being undertaken.

You will appreciate that the potential impacts of the UK leaving the EU are many and varied. I am pleased to advise the Council has been discussing and developing its responses to this over many months. As a result a significant amount of work has already been undertaken and this is obviously going to continue over the coming

weeks as well.

At a strategic and partnership level the Council has been proactive in considering the potential macro-economic impacts of Brexit on the county using economic data and intelligence to identify issues and trends and directing support accordingly through joint work with partners such as the LEP and the Chamber of Commerce. Although some uncertainty remains at this point whilst negotiations with the EU continues and Parliament considers its options, for the last twelve months or more the Council has worked with partners in the Derbyshire Economic Partnership to ensure businesses have been kept informed of developments and the potential implications and provided with practical information and support required to ensure they can survive Brexit and thrive in the new global trading environment.

For example, we have worked with the East Midlands Chamber and DEP supported by the CBI and the Federation of Small Businesses in sponsoring regular breakfast briefings over the past few months. These have been focused on practical issues such as customs and trade, employment law, tax and VAT. Established networks have been used to share advice and guidance and face-to-face support has been provided through the D2N2 business growth work.

More recently we have been working closely with D2N2 and East Midlands' colleagues in providing weekly updates to Government on emerging local issues and practicalities to help inform wider strategic responses.

The Council has also continued to develop its positive approach to supporting and building international trading opportunities for Derbyshire companies and attracting further investment into the county. This has involved consolidating existing business and cultural links with Japan and developing new global relationships, for example with China which I know Councillor Western has been involved with previously.

In conjunction with DEP a further budget has been provided to support the Council's enterprise and investment services and we have targeted more funding into the successful Invest in Derbyshire Service which linked to the Midlands Engine has been substantially enhanced with new branding, website, promotional plan and additional services. It is going to be relaunched again in the spring of this year.

In terms of strategic partnership working we have been liaising closely with agencies such as the police and the NHS, neighbouring resilience forums and Government to consider and plan for any issues that might impact on critical core business or might disrupt existing systems.

Multi-agency meetings are taking place during February and March in the lead-up to the planned exit date and will continue post-29 March should there be a need. These will happen fortnightly in February on the 11th and 25th, weekly in March on the 4th, 11th, 18th and 25th in the lead-up to the exit date and then daily from the 29 March, so this is something that we take extremely seriously.

In terms of resilience planning weekly telecom for instance are being held with the Government to ensure that the Council is aware of any emerging issues, but dealing with large scale strategic issues is only one aspect of the Council's work. Obviously we have taken very seriously our responsibility to ensure that the Council's own preparations and services are resilient to the potential impact of the UK's planned exit from the European Union. Over the past few months the County Council has assessed potential implications and has developed plans to mitigate against, and respond to, any threats to service delivery. These plans are being reviewed to consider any additional impacts that may arise as information becomes available.

Internal meetings are taking place to ensure all Council departments are kept informed of issues as they emerge and as part of our preparations a comprehensive Brexit briefing was presented to the Corporate Management Team in October outlining the likely macro-economic impacts to the UK economy both short-term and long-term and possible impact on Council services and budgets in a number of key areas such as procurement, devolution, local employment and external funding. A briefing has since been used for the basis of a further discussion and consideration at the D2 Joint Committee and DEP Board to ensure the partnership process is effective, co-ordinated and responsive to developing circumstances.

Internally more detailed discussions have taken place with focus sessions with service managers at the CD Leadership Forum which is forming the basis for further resilience and action planning at departmental level identifying the critical functions and services to customers that will be most directly impacted by Brexit. These are the following examples: economic development and access to external EU funding on which a number of our business support programmes depend. I have just outlined some of the extensive work we are doing on that. Review of regulatory services such as Trading Standards where we are preparing for an increase in demand from Derbyshire businesses seeking advice on EU imported/exported goods from the 29 March and the risk of scams also arising from confusion around Brexit processes such as around visa fees and applications for the right to remain in the UK as well as undertaking work to develop a detailed understanding of the EU status of our existing employees and

supporting them with the relevant registration processes to acquire settled or pre-settled status. Preparatory work has already begun pending further Government advice about the level of proof required to be retained by the Council. For new and potential employees the Council is looking to amend the application form to enable the appropriate nationality information to be collected.

As you can imagine there is much detailed work being undertaken in relevant service areas both frontline and back office to ensure that the Council is as prepared as we can be to deal with the practical implications of Brexit. My Cabinet Members will continue to meet regularly with chief officers to ensure our plans and actions are discussed and delivered over the coming weeks to ensure our efforts to support individuals, local communities and businesses are as effective as possible. We will all have heard recently, of course, over the availability of money from Government of around £170,000-odd to Derbyshire County Council, £200,000-odd to Derby City but there is also money being distributed as well to Districts, of course, who we will be closely working with.

Councillor Western asked the following supplementary question:

Hopefully things go smoothly but if it doesn't who will people be phoning over the weekend? It will be local members. My question is will Councillor Lewis please ensure that there is a full briefing for elected members before we get to the Brexit date so that elected members can answer questions from their constituents should they arise?

Councillor Lewis responded to the supplementary question as follows:

I am more than happy actually to provide a briefing to elected members. We can organise that as soon as we possibly can to deliver a session which we hope members will find useful, include in there that we get key contacts.

(b) Question from Councillor Gillott for Councillor A Dale, Cabinet Member for Young People

Last week the Cabinet Member for Children's Services recommended to Cabinet that it change the Council's Early Help Services for children, young people and their families as part of the cuts to Council spending, aligning the service to the budget made available by Cabinet. Over 70% of those who responded to the consultation opposed the proposals, fearing the impact the change will have on the well-being of vulnerable children and young people. Can the Cabinet Member assure Council that no child or young person will be put at risk

by his proposals?

Councillor Dale responded to the question as follows:

I am happy to give Council plenty of assurance over these proposals.

Firstly, our proposals and vision for Early Help Service in the future very closely resemble the Early Help arrangements already in place and working well in other high performing Authorities like Lincolnshire. It is also worth pointing out that Lincolnshire's spending on Early Help has been less than a quarter of our own in recent years.

There is no evidence I have seen that suggests that children in care rises have been over and above that which we have seen in Derbyshire, in Lincolnshire as a result of having a smaller more targeted Early Help Service. Likewise, there is no evidence I have seen that suggests that in Derby or Leicestershire, which have similar models to the one which we are moving towards.

As the Cabinet paper made clear 28% of Early Help assessments we carry out result in no further action and 22% result in a single agency intervention. For me that clearly shows that we are currently intervening in the lives of children and families when other agencies should be offering the support instead.

In addition, some of the partnership arrangements we are proposing to move to with schools are already in place in certain parts of the county. Whittington Green is a good example of one of those schools which chose not to re-pool its contribution with us under the Labour administration's Rehome Programme a few years ago and since then it has been working with several other schools to develop their own Early Help offer. They have employed an Early Help manager and it is proving to be a successful arrangement. The head teacher herself described it very well: "We know our schools, our students and their parents and the services we offer are direct and personal without the need for referrals. We also know the County Council is there if some cases go over the thresholds for support that we can offer."

Schools, health professionals and others have always been the eyes and ears of our community. They see children every day and they are well placed to spot the signs of change that may indicate a risk to a child because they know the child. This will not change. Despite there being a reduction in the Early Help Services that we deliver directly, our proposed offer will still be more generous than a number of other Authorities around the country who have literally scaled back to statutory duties alone. Our offer will be more targeted and we will be

working with the most vulnerable children and families who most need our help to prevent the escalation of above safeguarding thresholds and under the new arrangements, as I have already said, we will be ensuring that practice is focused on evidence based interventions so that we can make the best possible use of our resources and ensure that we can effect as much positive change as possible in the light of the children and families that we work with.

Our arrangements at Starting Point will continue to ensure that there is advice in place as professionals if they have concerns about a child and that when referrals are received children and families are appropriately understood and the right advice, assessment or service can be provided. Where children may be at significant risk of harm this has always been and will remain the responsibility of Children's Social Care and to enable that response to be as effective as possible and to ensure that social workers have manageable caseloads, unlike when I took office, we have invested in our Children's Social Care Service to the tune of £5.3m. This shows that as an administration we take our responsibilities for the children of Derbyshire, who are the most vulnerable, very, very seriously. We will continue to do everything we can to ensure that our services are equipped to respond to those who have the most need whilst also working in partnership with others to enable a more proportionate response to those with lower level needs.

Finally, I do want to point out that our Early Help proposals are entirely compliant with the Derby and Derbyshire Joint Vision for Early Help Services which was agreed by both the City and the County Safeguarding Children's Boards. As the Deputy Police and Crime Commissioner will know, the PCC has a seat at the table of both of these Boards and at no stage did he raise any concerns over the proposed vision.

The following supplementary question was asked:

You may get serious case reviews looking at anything that goes on. You may get criminal proceedings or other judicial proceedings or even Ofsted inspections. Now none of us want an incident to happen, but when it does partners are telling me to think again, they have concerns and you don't and you proceed with it, which means the responsibility lies squarely with you as a politician who has made that choice.

My question is for you, you have made your decision, will you make it quite clear now both to the Council and to the people of Derbyshire that if one of those incidents does happen, and as I say we all hope it doesn't, but if one does and blame is placed at the feet of this Authority, you personally will accept that responsibility?

Councillor Dale responded to the supplementary question as follows:

I think that is quite a ridiculous assertion. As a former Lead Member for Children's Services Councillor Gillott knows very well that it would be entirely irresponsible for me to say that no child will ever be at risk in Derbyshire. Risk is an issue that Children's Services like the police and other statutory agencies have to work with, manage and review constantly. Risk and the perception of risk is never static. At the end of the day are we talking about risk that the child won't do as well as they could or risk of significant harm? I have already referred to the fact that children's social care is getting bigger under this administration, we are investing in more social workers and if there is a serious risk over a child's welfare they will still be referred in the usual channels to children's social care. I have already pointed out a range of factors. It is clear that there will be concerns from some organisations because this is a significant change and I don't deny that. There will always be that concern but we have put in place extra mitigation, we have ensured that no family who is currently benefiting from the Family Support Service will lose that service, it will only get new service users in from September onwards, and we have put substantial extra money into a transition team to work with partners like the schools, like social services, like the police and the voluntary sector to ensure that as our offer reduces they are able to pick up more of the lower level need cases so that we can focus our energy and all our effort on those highest level most vulnerable children who most need the support of the trained professionals. That is what we are going to do so no, I won't answer that direct question but I hope that that has satisfied you that I consider these proposals very, very seriously.

21/19 MINUTES OF MEETINGS OF COMMITTEES AND OTHER BODIES

On the motion of Councilor G Wharmby, duly seconded,

RESOLVED that the minutes of the following meetings be received:

- (a) Regulatory – Licensing and Appeals Committee held on 14 January 2019
- (b) Regulatory – Planning Committee held on 3 December 2018 and 7 January 2019
- (c) Pensions and Investment Committee held on 12 December 2018
- (d) Audit Committee held on 13 December 2018

- (e) Improvement and Scrutiny Committee – Places held on 28 November 2018
- (g) Improvement and Scrutiny Committee – People held on 21 November 2018
- (h) Improvement and Scrutiny Committee – Resources held on 6 December 2018
- (i) Improvement and Scrutiny Committee – Health held on 26 November 2018
- (j) Derbyshire Police and Crime Panel held on 15 November 2018
- (k) Standards Committee held on 10 January 2019