

## Cabinet

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### **MINUTES OF THE CABINET MEETING HELD ON 24 MARCH 2020 AT COUNCIL CHAMBER - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN.**

#### **Present:**

Cllr Philip Whitehead (Chairman), Cllr Richard Clewer (Vice-Chairman), Cllr Allison Bucknell and Cllr Pauline Church

#### **Also Present via Skype:**

Cllr Ian Blair-Pilling, Cllr Simon Jacobs, Cllr Laura Mayes, Cllr Phil Alford, Cllr Chuck Berry, Cllr Andrew Bryant, Cllr Clare Cape, Cllr Jane Davies, Cllr Sarah Gibson, Cllr Ruth Hopkinson, Cllr Atiqul Hoque, Cllr Jon Hubbard, Cllr Bob Jones MBE, Cllr Carole King, Cllr Gordon King, Cllr Brian Mathew, Cllr Nick Murry, Cllr Steve Oldrieve, Cllr Stewart Palmen, Cllr James Sheppard, Cllr Ian Thorn, Cllr Graham Wright and Cllr David Halik

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#### 32 **Apologies**

Apologies were received from Cllr Toby Sturgis and Cllr Bridget Wayman.

#### 33 **Minutes of the previous meeting**

The minutes of the meeting held on 4 February 2020 were presented.

#### **Resolved:**

**To approve as a correct record and sign the minutes of the meeting held on 4 February 2020.**

#### 34 **Declarations of Interest**

There were no declarations of interest.

#### 35 **Leader's announcements**

The Leader made an announcement about COVID-19 and Council decision making. He outlined the arrangements for taking decisions during the Coronavirus situation within the legal and constitutional framework and explained that the briefing note, copy attached to these minutes, would be circulated after the meeting.

It was noted that emergency legislation in relation to COVID-19 was being passed through Parliament although it did not currently include allowances for

Local Authorities to take decisions remotely. MP's had been lobbied about remote decision making and it was anticipated that this may be included in the legislation.

### 36 **Public participation and Questions from Councillors**

1. A statement and questions were received from Colin Gale, representing Pewsey Community Area Partnership, Pewsey Parish Council and Campaign to Protect Rural England about the recent review of how the Council conducts Public Consultations.

The Leader thanked Mr Gale for his comments and confirmed that a response had been prepared on the issues raised and a copy had been sent to Mr Gale and also published on the Council's [website](#).

2. A statement and questions were received from Anne Henshaw, representing Campaign to Protect Rural England, about climate change, planning and transport issues.

The Leader thanked Ms Henshaw for her comments and confirmed that a response had been prepared on the issues raised and a copy had been sent to Ms Henshaw and also published on the Council's [website](#).

### 37 **Update of Local Development Scheme**

Cllr Philip Whitehead, Leader of the Council and Cabinet Member for Economic Development introduced the report seeking approval for a revised Wiltshire Local Development Scheme (LDS).

The Leader referred to the Cabinet meeting held in March 2019 that approved the LDS 2019. The Cabinet, at that meeting agreed for any significant modifications to be referred back to them for consideration and approval.

The Cabinet noted that additional consultation on the Local Plan Review was planned with the wider community which would impact on the current timescales for the LDS, adoption would now be at start 2023. The revised timetable allowed for greater emphasis to be placed on climate change in the light of the Council's decision to acknowledge a climate emergency. The scope of the Local Plan Review would be changed and a separate single issue plan that meets the needs of Gypsies and Travellers would be prepared.

In response to a question from Cllr Ian Thorn about the inclusion of climate change issues in the LDS, The Chief Executive Officer – Place confirmed that the LDS sets out the timeline for the review of the Local Plan and that climate change would be addressed within the policies of the Local Plan.

**Resolved:**

- 1. To agree the revised Wiltshire Local Development Scheme be brought into effect from 30th March 2020 and published on the Council's website (Appendix 1 to the report).**
- 2. Authorises the Director for Economic Development and Planning, in consultation with the Cabinet Member for Spatial Planning, Development Management and Investment to make minor amendments to the Local Development Scheme in the interests of clarity and accuracy before publishing it on the Council's website.**
- 3. Delegates authority to the Director for Economic Development and Planning, in consultation with the Director for Legal, Electoral and Registration Services and Cabinet Member for Spatial Planning, Development Management and Investment to undertake subsequent reviews and updates to the Local Development Scheme and bring them into effect; save for those that introduce new development plan documents, which will be referred to Cabinet.**
- 4. In the event of the planned consultation in the Summer 2020 needing to be delayed due to COVID-19, delegates authority in line with (3) above to amend the Local Plan Review timetable to take account of this.**

*Reason for Decision:*

*Section 15(1) of the Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act 2011) (PCPA) requires the Local Planning Authority to prepare and maintain a Local Development Scheme (LDS). The up to date text and copy of any amendments to the scheme need to be made available to the public (section 15 (9A) PCPA). This is done through publication on the Council's website. Delegated authority for subsequent revisions to the LDS will allow for efficiency in maintaining an up to date document. Section 15(8) of PCPA requires the Local Planning Authority to revise the LDS at such time as they consider appropriate.*

*The timescale proposed for the Wiltshire Local Plan Review will allow for additional community engagement, allowing residents a greater opportunity to shape the communities in which they live and work. The introduction of the Gypsies and Travellers development plan document will enable the housing needs of this community to be met ahead of the Local Plan.*

## **38 SEND Inclusion Strategy 2020-2023**

Cllr Pauline Church, Cabinet Member for Children, Education and Skills introduced the report seeking approval of the SEND Inclusion Strategy 2020-2023.

Cllr Church explained that the report described the key achievements of the previous (Special Educational Needs and Disability) SEND strategy 2015 – 2019 and set out the background and the consultation that was taken forward to create the SEND Inclusion Strategy for 2020 – 2023. The strategy has been developed in co-production with parent/carers, children and young people and the organisations who make up the Wiltshire SEND Local Area Partnership. The main focus of this strategy is to support the development of inclusion for children and young people with SEND.

Cllr Hubbard, Chairman of the Children's Select Committee, reported that he and the Vice-Chair of the Select Committee had received a briefing on the new SEND Strategy, they were pleased with the progress made with the new Strategy and asked to see the further detailed plans to be considered by the SEND Local Area Partnership Board. Cllr Hubbard, as a member of the SEND Task Group, acknowledged the enthusiasm of the Task group for SEND young people to be educated in their local mainstream facility.

In response to questions from Cllr Gordon King about (i).applications for Education, Health and Care Plans completed after 20 weeks; and (ii) face to face consultation meetings in the West Wiltshire Area, Cllr Church indicated that (i) the 20% of the applications that were outside of the 20 week target would, for the majority, have their case heard within a week or maximum of a couple of weeks after the 20 week expectation; (ii) consultation meetings were set up in the north, south and central areas of Wiltshire, with good representation from across the west of the county.

**Resolved:**

**To approve the SEND Inclusion Strategy 2020 - 23**

*Reason for Decisions:*

*To support the work of Wiltshire's SEND Local Area through this SEND Inclusion Strategy 2020 – 23.*

**39 School Capital Programme 2020-2025**

Cllr Pauline Church, Cabinet Member for Children, Education and Skills introduced the report seeking approval for the Schools Capital Programme for 2020 – 2025, which addressed investment to improve the condition of maintained schools and expansion of mainstream schools.

The Cabinet were reminded that they had approved the Schools Capital Programme 2019–2024 in February 2019 and the updated Wiltshire School Places Strategy 2017-2022 in December 2017. The Council also has landlord responsibilities for the effective management and ongoing maintenance of the schools' estate. The Council receives annual capital funding allocations from the Department for Education (DfE) to meet basic need (new places) and condition (capital maintenance works) only. At its meeting on 25 February 2020, Full Council also approved an additional £5m over the next five years for school

maintenance works and an additional £100k per year for the next 10 years to improve the accessibility of schools.

In response to a question from Cllr Gordon King about the status of new capital schemes marked 'not started', Cllr Church provided an update on the commencement and completion dates for those schemes.

**Resolved:**

- 1. To note the progress on previously approved schemes at Appendix A of the report.**
- 2. To consider and approve the new schemes, subject to planning approval and completed S106 agreements, requiring a total commitment of £8.325m as outlined at Appendix B of the report.**
- 3. To approve the Schools Planned Maintenance Programme totalling £3.5m for 2020/21 as outlined at Appendix C of the report.**
- 4. To authorise the Chief Executive Officer for People to invite and evaluate tenders for the projects described in this report, and, following consultation with the Cabinet Member, to award the contract for the project (subject to approval of any necessary statutory proposals) and to authorise, in consultation with the Head of Strategic Asset & FM (or the Asset Portfolio Manager (Estates), in accordance with the relevant scheme of sub-delegation (under paragraph 7 of Part 3B of Wiltshire Council's constitution)), the acquisition of all land (and the completion of any legal documentation) reasonably required in order to facilitate the Schools Capital Investment Programme.**

*Reasons for Decisions:*

*The Council has a statutory duty to provide sufficient school places to meet the demand arising across Wiltshire, whether from demographic or population change, strategic housing development growth or the Army Re-Basing programme.*

*The approved Wiltshire School Places Strategy 2017- 2022 and its Implementation Plan identifies the priority basic need schemes requiring capital investment in the short, medium and longer term and these latest proposals for inclusion in the Schools Capital Programme will enable the priority works to be progressed. The Council also has Landlord responsibilities for the effective management and maintenance of the schools (for which the Council is responsible) estate and the approved programme will enable urgent and priority repairs and maintenance projects to proceed.*

Cllr Pauline Church, Cabinet Member for Children, Education and Skills introduced the report seeking approval for Wiltshire to participate in the South-Central consortium for the purchase of Independent Fostering Agency (IFA) placements for Looked After Children and Young People, from April 2021.

Cllr Church explained that Wiltshire Council currently procures IFA placements through a Framework Agreement competitively awarded in 2017, led by Bath and North East Somerset Council (BANES), and known as the South-West Framework and includes 7 local authorities. The South-Central Framework is led by Southampton and Bournemouth Councils and currently includes 19 Local Authorities across South-East and South-West England. Both Framework Agreements expire in March 2021

The Cabinet noted that the South-Central Framework offers access to the same providers at a similar price to the South-West contract. However, the South-Central consortium is more developed, offering higher levels of provider engagement and greater regional capacity for partnership working between Local Authorities.

Cllr Hubbard reported that he appreciated the briefing given on the proposed changes to the Fostering Framework and it seemed to him that the proposed changes are entirely appropriate and will enhance the options available to the Council.

In response to a question from Cllr Carole King about the foster carers recruitment process, Cllr Church confirmed that where possible, foster carers were recruited from within Wiltshire, in addition the advertising and promotional material was designed for the Local Authority area.

**Resolved:**

- 1. That the Cabinet approves Wiltshire Council joining the South-Central consortium for the purchase of IFA placements for Looked After Children, from April 2021.**
- 2. That the decision to execute any contracts that may arise as a result of the tender exercise (including the associated partnership agreements) be delegated to the Director of Commissioning, in consultation with the Cabinet Member for Children, Education and Skills.**

*Reason for Decision:*

*The proposal represents the best available option to ensure on-going compliance with the Local Authority's duty to quality assure providers of IFA placements.*

*Participating in the South-Central consortium enables Wiltshire to:*

- *speak with greater authority to local market providers as part of a much larger group of Local Authorities compared to the South-West consortium (20 rather than 6).*
- *benefit from centralised contract management and access to much richer data about the quality of carers available regionally (not available through the South-West approach).*
- *Focus commissioning capacity on strategic relationship building and market shaping, which offers the greatest opportunities to drive up quality of care for children and deliver financial savings.*

*Choosing not to engage in a consortium approach could result in all external IFA placements being made on a spot-purchase basis, with fewer quality safeguards and potential for uncontrolled spend.*

*Therefore, this recommendation supports the Council's key strategic aim of delivering more high-quality, local options for our looked after children, at the best possible value.*

#### 41 **Service Devolution & Asset Transfer Package - Bradford on Avon**

Cllr Richard Clewer, Deputy Leader and Cabinet Member for Corporate Services, Heritage, Arts, Tourism, Housing, Climate Change and Military-Civilian Integration introduced the report detailing the final package of the services and assets to be transferred to Bradford on Avon Town Council and the financial impact on Wiltshire Council.

Cllr Clewer referred to an update to the original report and explained that following discussions and ongoing negotiations with Bradford on Avon Town Council, that the transfer of the cemetery service and assets is delayed until the finer details have been agreed. It is proposed that the transfer of all other elements of the package still proceeds with an estimated transfer of early Summer 2020 with the cemetery service and assets following on as soon as reasonably practicable.

The Cabinet heard from Cllr Sarah Gibson, who explained that the Town Council was pleased with the outcome of the negotiations and process undertaken.

#### **Resolved:**

- 1. To approve the list of services and assets that will be transferred to Bradford on Avon Town Council. The inclusion of any open space land is subject to consideration of any objections received following the advertising of the disposal in accordance with statutory obligations.**
- 2. Delegate authority to the Growth and Investment Director following consultation with the Head of Estate and Development to remove assets from the final list if site constraints/legal issues are revealed as part of the detailed due diligence process**

3. **Note the net revenue impact to the Council and acknowledge that the Service Devolution programme benefits of cost savings and avoidance will be realised on a cumulative basis as the programme progresses and as more Towns/Parishes complete the process.**
4. **Delegate the implementation of the transfer of assets and the service delegation to the Growth & Investment Director in consultation with the Cabinet Member for Housing, Corporate Services, Arts, Heritage and Tourism,**
5. **To acknowledge and approve the delayed transfer of the Cemetery Service and associated assets to Bradford on Avon Town Council until such time as the particulars are agreed.**

*Reason for Decision:*

*To complete the transfer of the package of assets and services to Bradford on Avon Town Council.*

#### **42 The Maltings – Phase 1 River Corridor Improvements**

Cllr Philip Whitehead, Leader of the Council and Cabinet Member for Economic Development introduced the report about progress with the delivery of the regeneration of the Maltings and set out how it is related to the delivery of the River Corridor improvements scheme detailed in the Central Area Framework recently consulted on in public.

The Leader reported that the joint scheme with the Environment Agency will help reduce the flood risk to various areas in the city and improve leisure and recreational uses as well as ecology and biodiversity enhancements. It is vital to the delivery of the Central Car Park and Maltings regeneration scheme.

Cabinet noted that the report sought approval for funding towards the scheme's delivery in line with the Outline Business Case approved by the Local Enterprise Partnership and the council's strategy to regenerate the Central Car Park and Maltings in Salisbury.

#### **Resolved:**

1. **Agree to allocate £1.9m to the Maltings Phase 1 River Corridor Improvements from the 'Other Capital Schemes to be confirmed' approved budget.**
2. **Agree to grant to the Environment Agency up to £2 million to deliver the Maltings Phase 1 River Corridor Improvements, using Local Growth Fund grant approved by the Swindon and Wiltshire Local Enterprise Partnership.**

3. **Note that council officers will work collaboratively with the Environment Agency to secure additional funding required to deliver the whole scheme capital costs, the £1.9 million capital allocation serving as a backstop reserve in case this cannot be achieved from other available funding sources**
4. **Delegate authority to enter into contract with the Environment Agency to the Director Housing & Commercial, in consultation with the Director Highways and Environment and Director of Finance and Procurement.**

*Reason for Decision:*

*The proposals of this report will not only re-establish the ability to develop on the Maltings site by mitigating flood risk and enhancing the natural environment but will have wider benefits to the city of Salisbury, its residents, workers and visitors.*

#### 43 **Wiltshire Council's Housing Board Annual Report**

Cllr Richard Clewer, Deputy Leader of the Council and Cabinet Member Corporate Services, Heritage, Arts, Tourism, Housing, Climate Change and Military-Civilian Integration introduced the report which provided an update of the activities of the Council's Housing Board between December 2018 and November 2019.

Cllr Clewer explained that throughout the period of the Annual report, the Board has engaged in a range of activities to shape the service offered to residents and their families, increased service quality via appropriate monitoring mechanisms, encourage resident engagement and protected the reputation of the council as a landlord by ensuring a robust Business Plan is implemented.

The Cabinet noted that the report had been considered by the Environment Select Committee at its meeting held on 4 March 2020 endorsed the report and suggested that other forms of heat technology are considered, when moving away from providing boilers in HRA homes from 2025. In addition, it was noted that the Global Warming and Climate Change Task Group is considering the proposed energy efficiency ratings of the planned new council housing stock.

**Resolved: To note this Annual Report**

*Reason for Decision:*

*Wiltshire Council's Housing Board's Terms of Reference require an Annual Report to be presented to Cabinet.*

#### 44 **Chippenham Housing Infrastructure Fund Bid**

Cllr Philip Whitehead, Leader of the Council and Cabinet Member for Economic Development introduced the report which provided an update of the Housing

Infrastructure Fund scheme to enable the delivery of significant infrastructure works to the east and south of Chippenham.

The Leader reported that the £75m grant is specifically awarded to deliver a new road that unlocks land to support the delivery of 7500 homes in the Chippenham housing market area. The report detailed specific projects that the fund would enable and contained details about the first phase of the programme.

The Cabinet noted that contract negotiations with Homes England had commenced and that the timetable had originally been set for a completion date of September 2020.

The Leader indicated that there would be no public consultation undertaken on the proposals until after the restrictions on public movement in relation to the COVID-19 situation had been lifted by the Government. Therefore, the timetable would need to be revised to take this into account. He also acknowledged that the benefits of the programme outweighed the risks and he was content to proceed with the programme.

The Cabinet heard from Andrew Nicolson who read out a statement and asked questions in relation to the Chippenham Housing Infrastructure Fund bid. The Leader thanked Mr Nicolson for his comments and confirmed that a response had been prepared on the issues raised and a copy had been sent to Mr Nicolson prior to the meeting and also published on the Council's [website](#)

The Leader also referred to statements and questions from the following interested parties:

- Cllr Nick Murry
- Adrian Temple Brown
- Chris Caswill
- Helen Stuckey
- Kim Stuckey
- Louise Ranson
- Lucy Ranson
- Paul Ranson
- Ian James
- Isabel McCord
- Mel Moden

He thanked them for their comments and confirmed that responses had been prepared on the issues raised and copies had been sent to them prior to the meeting and also published on the Council's [website](#)

In response to questions from Cllr Ian Thorn about (i) the risks associated with the programme; (ii) the timescales; and (ii) whether the funding was capital or revenue; the Leader responded that (i) he fully expected the risks to not materialise and that planning permission for the road and allocation of sites for

housing to be granted; (ii) timescales would now be difficult to achieve due to the COVID-19 situation and conversations were being held with Homes England about this; and (iii) the funding element was all capital and would only revert to revenue in the event that risks materialise.

In response to a question from Cllr Cape about the Programme Team; The Leader confirmed that the Team consisted of a lead Director and one other full-time officer. The Team also received input from the Communications Team and Atkins – external partners.

Cllr Hubbard urged the Cabinet to make a positive decision on this matter and reminded everyone that if the 7,500 homes were not built in Chippenham then alternative sites in other parts of the County would need to be identified.

**Resolved:**

- 1. Note the contents of this report**
- 2. To approve the advance of £4.220m from the Capital Pipeline budget, to the Future Chippenham Team; under the supervision of the section 151 officer, prior to the receipt of the £75m HIF Grant in order to progress this programme within the timeframes available.**
- 3. To approve a capital budget of £1m from the Other Capital Budgets to be approved budget to fund the Future Chippenham Team. This cost cannot be claimed from the HIF grant, but is an integral part of the overall scheme.**
- 4. Agree the proposed delegated authority provisions detailed below to enable the Council to complete the first phase of the programme;**
  - a. Delegated authority is given to the Chief Executive Officer (Place) and his/her designated nominee to establish a Future Chippenham team, entirely separate and distinct from the Council in its role as Local Planning Authority, to support the Executive functions of the Council and**
    - i. Lead contract negotiations with Homes England (HE)**
    - ii. Create the scheme masterplan**
    - iii. Manage the planning process**
    - iv. Manage the procurement process**
    - v. Manage the associated business case**
    - vi. Plan and conduct consultation and engagement activities with all appropriate stakeholders**



at the earliest possible opportunity, notably in September 2020 and March 2021.

5. To note that all work associated with the Future Chippenham programme, including the ability to use the HIF grant, is subject to;
  - a. a successful planning consent for the road build and
  - b. allocation of all sites forming part of the scheme for housing development as an outcome of the separate Local Plan Review,
6. To note that the timelines for the planning application do not align with the Local Plan Review timelines and there is a risk that consent will not be granted, and the site not allocated for housing.
7. To note that if the risks identified in 5 & 6 above occur, all funds put into the Future Chippenham programme must be considered spend at risk and could revert to revenue spend in the same financial year, if an alternative source of capital cannot be identified.
8. To note that should contract negotiations with HE to secure the HIF funds fail then the Council will need to consider mitigation strategies for expenditure incurred which may include for example;
  - a. Land sales to defray costs incurred to date providing the overall programme is still delivered
  - b. Agreement with a joint venture private sector partner(s) to undertake development, reducing the Council's commercial gain in the long term, but securing by other means this much needed scheme for the benefit of Chippenham and the County as a whole.

*Reasons for Decision:*

*In order to meet the deadline associated with the HIF grant, the Council will need to forward fund, at risk, the establishment of a team to support delivery of the required outputs detailed above. Some of these funds will be recoverable from the HIF grant once contracts are signed with HE, but some will not be recovered until the second phase of the programme, post 2025. To begin with this will require a commitment of £5.220m capital in the 2020/2021 financial year, as detailed above. This budget, if assigned, is done so at risk and on the assumption of successful HIF grant contract negotiations and Council agreement to proceed.*

#### 45 **Interim Management Arrangements for the Contracted Leisure Centres**

Cllr Allison Bucknell, Cabinet Member for Communications, Communities, Leisure and Libraries introduced the report setting out the interim management

arrangements for the council's leisure centres currently managed by Places for People Leisure Ltd (PfP).

The Leader acknowledged that the review timetable for reporting back to Cabinet in January 2021 may be severely compromised due to the COVID-19 situation.

**Resolved:**

- 1. Agree to undertake a short-term procurement exercise for the management of the current outsourced Wiltshire leisure sites.**
- 2. To authorise the Director of Communities and Neighbourhood Services to enter into an interim contract for the management of the sites on completion of the procurement exercise.**
- 3. To progress at pace the Leisure facilities review and determine through Cabinet by no later than January 2021, proposals for the long-term facilities needs and management of all Wiltshire's leisure facilities.**
- 4. In making this decision Cabinet is requested to consider the corporate procurement, legal and financial implications of this decision covered in this report.**

*Reasons for Decisions:*

*PfPs contract for the management of ten of Wiltshire Councils leisure facilities is due to expire on 31 March 2021. It was intended that a full review of community assets and future management models would be completed in sufficient time to enable the transition of sites into the approved management model as of 01 April 2021.*

*Whilst some work has been undertaken to review the community assets, most of the work has not been completed. The consequence of this has culminated in a point whereby the PfP sites (and/or the Wiltshire Council managed sites) cannot be moved directly into the new model.*

*A decision is required to determine how the PfP sites will be managed in an interim period to ensure the continuation of leisure services. Of the options assessed the procurement route is the most cost and resource effective and the only one that can be achieved within a twelve month timeframe.*

**46 Trowbridge Sports Centre Provision**

Cllr Allison Bucknell, Cabinet Member for Communications, Communities, Leisure and Libraries introduced the report seeking (i) capital funding to repair Clarendon swimming pool and (ii) resources to explore options for a future Trowbridge Town Centre site to provide gym and swimming facilities.

Cllr Bucknell reported that since September 2019, the council has been investigating structural concerns at Trowbridge Sports Centre relating to corrosion of the steel frame of the main pool building and reception area. The site has been closed since 23 December 2019 following further exploratory work. It was noted that repairs to bring the swimming pool back into use were possible and that the pool would then have a life span of five years.

In response to questions from Cllr Stewart Palmen, Cllr Andrew Bryant and Cllr Steve Oldrieve about potential sites for a Trowbridge Town Centre facility and linking the project to the High Street Fund Bid, the Leader confirmed that a new Town Centre facility would not be linked to the High Street Fund Bid, although the two schemes would enhance and be of benefit to each other in the longer term.

**Resolved:**

- 1. Approve the Capital funding required to undertake the repair works to Clarendon swimming pool bringing the pool back into use and maintaining it over a 5-year period.**
- 2. Confirm Cabinet's commitment to invest in, and deliver, a financially viable town-centre leisure facility to include gym and swimming facilities for residents of Trowbridge and the surrounding area. This to be taken forward in conjunction with the Future High Streets Fund with recommendations and options from this work to be brought back to Cabinet.**

*Reasons for Decisions:*

*Trowbridge Swimming Pool has been closed since 23rd December 2019 due to structural issues. Repairs are possible and will provide up to five years additional usage of the facility. The proposals contained in this report seek to ensure that there is continued swimming provision in Trowbridge whilst also seeking to enable Trowbridge Town Centre to thrive through sustainable service led growth integrating leisure facilities to provide a catalyst for this.*

47 **Urgent Items**

There were no urgent items.

48 **Exclusion of the Press and Public**

**Resolved:**

**To agree that in accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public from the meeting for the business specified in Item Numbers 18 and 19 because it is likely that if members of the public were present there would be disclosure to them of exempt information as defined in paragraph 3 of Part I of Schedule 12A to the Act**

**and the public interest in withholding the information outweighs the public interest in disclosing the information to the public.**

49 **Interim Management Arrangements for the Contracted Leisure Centres**

Cllr Allison Bucknell, Cabinet Member for Communications, Communities, Leisure and Libraries presented the appendix to the Interim Management Arrangements to the Contracted Leisure Centres report considered at item 45 above. The appendix provided an overview of the options considered for the Council leisure centres currently managed by Places for People Leisure Ltd (PfP):

**Resolved:**

**To agree to insource Melksham Blue Pool so that the site is managed by Wiltshire Council as of 01 April 2021.**

*Reason for Decision:*

*PfPs contract for the management of ten of Wiltshire Councils leisure facilities is due to expire on 31 March 2021. It was intended that a full review of community assets and future management models would be completed in sufficient time to enable the transition of sites into the approved management model as of 01 April 2021.*

*Whilst some work has been undertaken to review the community assets, most of the work has not been completed. The consequence of this has culminated in a point whereby the PfP sites (and/or the Wiltshire Council managed sites) cannot be moved directly into the new model.*

*A decision is required to determine how the PfP sites will be managed in an interim period to ensure the continuation of leisure services. Of the options assessed the procurement route is the most cost and resource effective and the only one that can be achieved within a twelve month timeframe.*

50 **Virgin Healthcare Services**

Cllr Pauline Church, Cabinet Member for Children, Education and Skills presented a report which provided information in respect of an extension to the Wiltshire Children's Community Healthcare Service (WCCHS) contract, currently delivered by Virgin Care Services (VCS).

**Resolved: That a two-year extension is awarded with a contract variation that the service will:**

- a. report on outcomes and impact**
- b. demonstrate an increased population health needs led approach to service development**

- c. be more actively engaged in the FACT Programme; and**
- d. strengthen relationships and integrated working with key partner agencies, such as Children's Services.**

*Reason for Decision:*

*The contract with Virgin Care to deliver the Wiltshire Children's Community Healthcare Service expires on 31 March 2021. The contract allows for the contract to be extended for a further two years. This will enable the CCG and Council to have sufficient time to fully engage professionals, parents/carers, children and young people to coproduce a new delivery model from April 2023.*

(Duration of meeting: 10.00 am - 12.25 pm)

The Officer who has produced these minutes is Stuart Figini of Democratic Services, direct line 01225 718221, e-mail [stuart.figini@wiltshire.gov.uk](mailto:stuart.figini@wiltshire.gov.uk)

Press enquiries to Communications, direct line (01225) 713114/713115

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**COVID-19 Council decision  
Making  
Briefing Note No. 20-13**

**Lead officers:** Ian Gibbons, Director of Legal Electoral and Registration Services, and  
Monitoring Officer  
Robin Townsend, Director of Corporate Services

**Date Prepared:** 23/03/2020

**Direct Line:** (01225) 718214

**Purpose of this Briefing note**

1. To outline arrangements for taking decisions during the corona virus situation within the legal and constitutional framework

**Background**

2. Central Government is providing daily public updates regarding its approach to tackling the spread of COVID-19. All Wiltshire Council teams are actively responding to the virus' impact and are deploying their Business Continuity Plans. The council's current priority is to maintain the delivery of key services to protect the health and wellbeing of Wiltshire residents, particularly those in vulnerable groups.
3. For up-to-date information on council services during the current situation please visit: <http://www.wiltshire.gov.uk/public-health-coronavirus>.
4. For current NHS guidance for the public on the virus please visit: <https://www.gov.uk/government/collections/coronavirus-covid-19-list-of-guidance>.
5. The Local Government Association (LGA) has created webpage with a range of information on the ongoing situation aimed at local authorities (link below). This includes [guidance for councillors](#) on exercising their community leadership role at this time: <https://www.local.gov.uk/coronavirus-information-councils>

**Decision making**

6. The current situation is impacting on all areas of life and therefore all council services. To support communities and protect the vulnerable, Wiltshire councillors and senior officers must be able to take effective decisions quickly. However, decisions must continue to be legally sound and in-keeping with the principles of decision making set out in the council's constitution. These include:
  - to produce action that is proportionate to the desired outcome
  - to ensure open, fair and honest administration
  - to be clear over desired outcomes and aims
  - to record the options considered and discarded
  - to state the reasons for the action
  - to consult interested parties where appropriate and practicable
  - to consult appropriate officers and to seek their professional advice
  - to show due respect for human rights, and to provide equality of opportunity.
7. The council's Business Plan 2017-27 also commits to decision making that is,
  - a) Open, transparent and inclusive
  - b) Flexible i.e. taken at the right level
  - c) Responsive.
8. Changing government guidance regarding isolation and social distancing means that the normal practical procedures for making decisions and facilitating engagement on them (such as through public meetings) have become increasingly unsafe. The council is therefore considering and implementing practicable alternatives that will maintain robust and, as much as possible, open and transparent governance.

#### Normal decision-making arrangements

9. It should be noted that most incidental decisions regarding the council's operations are taken by officers. The functions and decision making powers of the Council, Cabinet and various councillor committees are set out in the constitution<sup>1</sup> and underpinned by legislation. In summary:
  - Under current legislation (and also reflected in the Constitution) councillors must be **physically present** at any formally constituted meeting (such as those listed below) to be part of the quorum, vote and thereby take decisions. In keeping with this, there is a requirement for councillors to attend a council meeting in-person at least once every six months.
  - There are certain decisions that only **Full Council** can take, including adopting or amending the council's budget and policy framework and changing the constitution.

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<sup>1</sup> Part 3

- Functions **not** reserved to Full Council or its committees by law or under the constitution are the responsibility of the Leader either directly or through Cabinet. Cabinet's functions include deciding policies that fall within the Budget and Policy Framework and implementing and delivering the Budget and Policy Framework.
- The Leader may delegate authority to individual cabinet members to make decisions within their remit.
- Area Boards have delegated authority to make executive decisions within the parameters set out in the Constitution.
- Officers have delegated authority to make executive and non-executive decisions under the Council's Scheme of Delegation to Officers.,.
- These delegations are interpreted widely to aid the smooth running of the council, the efficient delivery of services and the achievement of the council's goals.
- Directors can delegate authority to officers in their service areas through schemes of sub-delegation.

## Decision making in the current circumstances

### *Remote decision making by councillors*

10. Despite previous lobbying of the Ministry for Housing, Communities and Local Government (MHCLG) remote decision-making is currently not permitted under legislation<sup>2</sup>. A relaxation of this is **not** currently contained within the draft Coronavirus Bill, but it is understood that amendments to the Bill regarding council meetings are due to be proposed. Proposed amendments to the Bill will be published [here](#) and councillors will be updated on this situation and the implications for how decisions are taken.
11. If remote decision making becomes lawful, the council will employ the technology available to facilitate it along with public engagement. If councillors' physical attendance continues to be required and the current public health precautions remain – and in cases where the delegations to individuals below are not appropriate – practical alternatives will be used. This could include, for example, holding meetings with the minimum permitted number of councillors physically present for quorum (maintaining political balance where appropriate) with others joining remotely. Officers are already exploring all these options so that the council is prepared, whether new legislation is passed or not.

### *Full Council*

<sup>2</sup> Section 99 and paragraphs 6 and 39 of Schedule 12 to the Local Government Act 1972

12. Under the Local Government Act 1972, Full Council must hold a meeting between March and May each year to consider certain matters. As with remote decision making, a relaxation of this requirement is not contained within the draft Coronavirus Bill, but this could change through amendment. If such an amendment is not agreed, alternative arrangements such as those outlined under paragraph 11 may be required.

13. Whether or not the legislation changes or not, consideration will be given to amending the current constitutional requirements regarding councillors attending a meeting in-person every 6 months.

### *Delegated Cabinet Member decisions*

14. Under the constitution<sup>3</sup>, **individual Cabinet Members** can exercise any executive functions within their portfolio areas as determined by the Leader.

15. While these broad powers are **not** emergency provisions and in fact apply in **normal circumstances**, custom and practice at Wiltshire Council is that significant executive decisions (including key decisions) are taken at full meetings of the Cabinet. This is in the interest of open and transparent governance.

16. If holding full Cabinet meetings is no longer possible because of Government advice, greater reliance may be placed on the decision making powers of the Leader or individual Cabinet members. All such decisions are made in accordance with the Leader's Protocol on Individual Cabinet Member Decision Making in the Constitution and are published on the council website, with email alerts sent to all Wiltshire councillors. The Protocol requires 5 clear days' public notice of the intention to make such decisions (unless they are classified under the constitution as urgent), allowing for a period of public engagement and challenge. Overview and Scrutiny (see below) has powers to "call in" and pause or halt implementation of such decisions<sup>4</sup> (bar urgent ones). If in the current situation the Leader or individual Cabinet members need to take more significant executive decisions, additional opportunities for prior engagement with the public and non-executive councillors can be explored.

17. It should be noted that where a cabinet member is unable to act because of absence, or any other reason, the Leader of the council may nominate another member of the cabinet to exercise the function on their behalf.

### *Key decisions*

18. In normal circumstances, **key decisions**,

- Are taken at meetings of the full Cabinet (though this is not a requirement)

<sup>3</sup> Part 3, Section C

<sup>4</sup> Providing certain conditions are met – see Part 8 of the constitution.

- Must be included in the published Cabinet Forward Work Plan at least 28 calendar days before the decision is taken.
- Cannot be taken unless:
  - a notice (in the Cabinet Forward Plan) has been published on the council website and made available to the public at council offices; and
  - at least 28 clear calendar days have elapsed since the publication of this forward plan; and
  - where the decision is to be taken at a meeting of the Cabinet, the usual public notice of the meeting as required by the Constitution and legislation has been given.

19. In the current situation, it is possible that a key decision would need to be taken more quickly, and the constitution's provisions of **General Exception** and **Special Urgency** can allow this:

20. Under **General Exception**, if a matter that is likely to be a key decision has **not** been included on the forward plan, the decision **can** still be taken if:

- the decision must be taken by such a date that it is impracticable to defer it until it has been included in the next forward plan and until the start of the first month to which the next forward plan relates;
- the Proper Officer has informed the chair of the Overview & Scrutiny Management Committee, or if there is no such person, each member of that committee in writing, by notice, of the matter to which the decision is to be made.

21. Under **Special urgency**, if, by virtue of the date by which the decision must be taken, the procedure regarding general exception (above) cannot be followed then the decision can be taken if the individual decision taker or the chair of the body making the decision, obtains the agreement of;

- the chairman of the Overview and Scrutiny Management Committee; or
- if there is no such person, or if the chairman of the Overview and Scrutiny Management Committee is unable to act, the chairman of Full Council; or
- where there is no chairman of either the Overview and Scrutiny Management Committee or of Full Council, the vice-chairman of Full Council

...that the taking of the decision is urgent and cannot be reasonably deferred.

It must be recognised that under the developing Covid-19 situation it will be necessary for relevant key decisions to be made by directors under the emergency powers described above.

*Emergency powers*

22. As noted above, most incidental decisions regarding the council's operations are taken by officers. This would continue under the current circumstances with arrangements for appropriate councillor consultation in place. However, under Part 3, Section D1 of the constitution, **council directors** are also empowered to take **all necessary decisions in cases of emergency**. Under this scheme, "emergency" means any situation in which the relevant officer believes that there is a risk of damage to property, a threat to the health or wellbeing of an individual or that the interests of the council may be compromised. This would cover the current situation regarding Covid-19 given the critical issues this is causing, Government advice and the declaration of a major incident by Local Resilience Forum (LRF) on 19<sup>th</sup> March 2020.

23. Executive decisions taken by officers, including emergency powers, under delegated powers must be taken in accordance with the Scheme of Delegation, recorded and published on the council website.

### *Regulatory decisions*

24. The majority of the council's decisions as a **planning** authority are taken by officers under delegated powers<sup>5</sup> with the more contentious applications being "called in" by Wiltshire councillors for determination at planning committee. If planning committees cannot meet, it may be appropriate for those decisions to be deferred, unless it can be demonstrated that a decision is urgent. It may then be appropriate for officers to take the decision under delegated powers following consultation with relevant councillor(s). The appropriate approach may need to be considered on a case-by-case basis taking the changing situation into account, including any change in the rules on council meetings.

25. The specific **licensing** powers delegated to relevant officers are set out in the Constitution<sup>6</sup>. As with planning, decisions will have to be made on a case-by-case basis having regard to the nature and urgency of the matter and taking the changing situation into account.

### *Area Boards*

26. Area Boards meetings and the Joint Strategic Needs Assessment (JSNA) have been suspended in response to Government guidance. The situation will continue to be reviewed. Up to date information on meeting changes can be found [here](#). Councillors can also subscribe to updates [here](#).

27. A decision will follow in the coming months about how the Joint Strategic Needs Assessment process will proceed and this will be communicated once it is established.

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<sup>5</sup> Part 3 Section D3

<sup>6</sup> Part 3 Section D4

28. An established process is in place to ensure urgent community area grants, youth grants and health and wellbeing grants and other Area Board decisions (such as CATG) can continue to be determined during the current situation. Many Area Boards have delegated authority to the Community Engagement Manager (CEMs), after consultation with the Chairman, to determine grant applications (within an upper financial limit) where they are urgent and a meeting cannot be held.
29. The Leader will determine urgent grant applications that exceed the financial limit delegated to CEMs. In this event, a report will be published on the council's website listing the decisions to be determined and inviting representation from all councillors and members of the public for a period of at least 5 working days. CEMs will directly invite all relevant Area Board members to provide their feedback on proposed decisions in writing, and the details will also be published on the Community Matters website to encourage community feedback.
30. Once feedback has been received, the Leader will consider this and will make the decisions. The decisions will be published online, incorporating the feedback received. If required, this process can also be used to allocate urgent Community Area Transport Group funding.
31. Despite not being able to hold public meetings, the Area Boards may continue to engage with residents and other local organisations. To keep in touch with these groups the Our Community Matters websites will be regularly updated and weekly newsletters will continue to be sent out. To find your local Our Community Matters site follow the link [here](#). The Community Engagement Managers will also continue to update communities via direct communications and through social media, particularly through twitter. You can find your community engagement manager on twitter through the Area Boards page of the Wiltshire Council Website [here](#).
32. In addition to this Wiltshire Councillors and Town and Parish Councils are encouraged to make use of the COVID-19 [Community Pack](#) to support their communities during the ongoing situation. The pack contains a list of key contacts, resources and information in one place.

### *Other committees*

33. Officers in consultation with the relevant chairmen are considering how the council's other committees and advisory bodies can continue to operate in the current circumstances. Councillors will be kept informed and this guidance will be updated.

### *Overview and Scrutiny*

34. The council's four Overview and Scrutiny (OS) committees are constituted to discharge the functions conferred by the Local Government Act 2000 as amended, and associated regulations. OS represents an important part of the Cabinet model

of decision making through facilitating non-executive input on Executive policy development and decisions. Officers will be supporting the leading OS councillors and the Executive to consider appropriate arrangements for overview and scrutiny during the current situation.

## **Conclusion**

35. These arrangements are intended to ensure that the council is able to discharge its responsibilities efficiently and effectively during this critical period. They will be kept under review as the situation develops and in the light of any changes in relevant legislation and guidance.
36. Councillors will be kept informed of developments and this guidance will be updated as necessary in consultation with Group Leaders and the Constitution Focus Group as appropriate.
37. If Councillors have any queries or concerns regarding these matters they should refer to the contact details below.

## ***Further Enquiries to:***

Libby Johnstone, Democratic Governance Manager, [libby.johnstone@wiltshire.gov.uk](mailto:libby.johnstone@wiltshire.gov.uk), (01225) 718214

Henry Powell, Scrutiny Lead, [henry.powell@wiltshire.gov.uk](mailto:henry.powell@wiltshire.gov.uk), (01225) 718052

## ***Report authors:***

Henry Powell and Kieran Elliott