

NOTTINGHAM CITY COUNCIL

EXECUTIVE BOARD

**MINUTES of the meeting held at Loxley House, Nottingham on 17 May 2016
from 14.03 - 14.29**

Membership

Present

Councillor Jon Collins (Chair)
Councillor Graham Chapman (Vice
Chair)
Councillor Alan Clark
Councillor Nicola Heaton
Councillor David Mellen
Councillor Dave Trimble
Councillor Sam Webster

Absent

Councillor Nick McDonald
Councillor Alex Norris
Councillor Jane Urquhart

Colleagues, partners and others in attendance:

Pat Fielding	- Director of Education
Melanie Fretwell	- Principal Enforcement Officer
Alison Michalska	- Corporate Director for Children and Adults
Nathan Oswin	- Political Assistant to the Labour Group
Stephan Richeux	- Corporate Media Manager
Peter Saull	- BBC Nottingham
Jennifer Scott	- Nottingham Evening Post
Steve Stott	- Anti-Social Behaviour Manager
Andy Vaughan	- Corporate Director for Commercial and Operations
Geoff Walker	- Director of Strategic Finance
Michael Wilsher	- Inclusion Officer
Jemina Brown	- Member of the public
Phil Wye	- Governance Officer

Call-in

Unless stated otherwise, all decisions are subject to call-in and cannot be implemented until 26 May 2016.

1 APOLOGIES FOR ABSENCE

Councillor Nick McDonald – other work commitments
Councillor Alex Norris – other council business
Councillor Jane Urquhart – work commitments

David Bishop
Ian Curryer

2 DECLARATIONS OF INTERESTS

None.

3 MINUTES

The Board confirmed the minutes of the meeting held on 19 April 2016 as a correct record and they were signed by the Chair.

4 PROPOSED EXPANSION OF MELLERS PRIMARY AND NURSERY SCHOOL - KEY DECISION

The Board considered the Portfolio Holder for Schools' report requesting approval to allocate funding towards works to expand Mellers Primary School. Approval is also requested to enter into contract with Wates Construction to undertake the extension works.

RESOLVED to

- (1) approve the allocation of funding for £3m for works to expand Mellers Primary School from a 210 place to a 420 place primary school with 52 full time equivalent place nursery. Overall this will increase the project budget to £3.35m;**
- (2) approve the procurement of the works as set out in the Business Case in Appendix A;**
- (3) delegate authority to the Head of Legal Services to enter into contract on behalf of Nottingham City Council with Wates Construction to deliver the expansion, subject to costs being within the agreed build budget of £3.22m and value for money demonstrated.**

Reason for decision

Nottingham City Council is facing increasing pressure to provide additional places for primary children due to an increasing birth rate and inward migration. To date, a number of schools have already been expanded to provide additional school places, this has been done primarily using Basic Need grant. This grant allocated by the Education Funding Agency (EFA) to support Local Authorities to fund additional school places. Mellers Primary is oversubscribed for September 2016 therefore the school are taking a bulge year to accommodate additional pupils ahead of permanent expansion in September 2017. The expansion of Mellers Primary will help address the need for additional school places in that area of the city.

Design development is now complete and the project has been subject to market testing to provide a robust cost estimate. In order to deliver the expansion, approval to allocate the required funding and to enter into contract is required.

Other options considered

Doing nothing was rejected as there are no other schools in the required area able to accommodate this size of expansion at this time.

5 SCHOOL CONDITION FUNDING ALLOCATIONS FOR 2016-2017 - KEY DECISION

The Board considered the Portfolio Holder for Schools' report identifying how the School Condition Funding grant from the Department for Education (DfE) will be prioritised to meet the needs of schools maintained by the council, and seeking approval for procuring and managing the works effectively.

RESOLVED to

(1) approve the allocation of the School Condition funding, totalling £1.554m to the schemes below, noting that £0.207m is set aside as a contingency fund:

School	Scope	Funding required
Robert Shaw Primary	Heating works	£0.2m
Robin Hood Primary	Replacement of roof	£0.202m
Berridge Junior	Replacement of roof	£0.370m
Seely Primary	Replacement of roof	£0.150m
Dovecote Primary	Phase 3 heating	£0.165m
Scotholme Primary	Asbestos removal	£0.150m
Claremont Primary	Heating works	£0.100m
Contingency fund		£0.207
Total		£1.544m

(2) amend the Capital Programme to include the additional £1.544m received as part of the grant;

(3) delegate authority to the Corporate Director for Children and Adults to allocate contingency funding to projects such as health and safety or condition issues arising during 2016/17 and to adjust the funding allocation for each scheme once cost and survey information is received, subject to value for money being demonstrated and costs being within the overall budget allocated for this programme of works;

(4) appoint NCC Design Services to design, procure and manage the schemes;

(5) approve the procurement of the works through the East Midlands Property Alliance (EMPA) framework – an OJEU (Official Journal of the European Union) compliant framework;

(6) delegate authority to the Head of Legal Services to sign contracts with the preferred contractors following procurement exercises to allow schemes to be delivered.

Reason for decision

The prioritisation of the funding is based on advice received from the council's Design Services team and external specialist contractors. There are two areas where funding has been prioritised:

- Health and safety issues likely to impact on children and staff;
- Condition issues likely to impact on the operation of the school;

The balance of the funding for the School Condition grant has been identified as part of the prioritisation process and £0.207m will be held as a contingency amount to deal with urgent health and safety or condition issues that arise during the financial year 2016/17. Delegating authority to the Corporate Director for Children and Adults to approve these schemes will enable a swift response to urgent issues as they arise.

Other options considered

Consideration was given to combine the Condition funding and the Basic Need funding. If combined, this funding could be used to address the shortfall in school places across the city.

Consideration was also given to amalgamating the Condition grant with broader City Council capital funding.

Both of these options were rejected as they would leave schools at risk of closure through health and safety or condition issues. It would also mean that school buildings would continue to deteriorate, increasing the risk of forced closures for emergency repairs in the future.

6 ALTERNATIVE PROVISION MODEL 2016/2017 - KEY DECISION

The Board considered the Portfolio Holder for Schools' report seeking approval for proposals to move to a new model for alternative provision for the 2016/17 financial year. This involves the devolution of high needs funding to mainstream maintained schools and academies under a Service Level Agreement in order to support early intervention and make provision for pupils with challenging behaviour in schools.

RESOLVED to

- (1) approve the proposal to devolve funds to schools from the Dedicated Schools Grant (DSG) funded High Needs budget from the 2016/17 financial year under a Service Level Agreement;**
- (2) approve the use of an additional £3.365m from the Statutory School Reserve to support the implementation of this model over the next 5 years. £0.500m of this requirement is to cover potential risks.**

Reason for decision

The current system is inequitable and is not financially sustainable.

The intention behind these proposals is to put schools in charge of commissioning alternative provision to support pupils at risk of permanent exclusion in their schools.

This is consistent with the national direction of travel as outlined in the White Paper and National Funding Formula and High Needs consultations.

It is envisaged that there will be improved educational outcomes as a result of this approach.

The Local Authority has consulted schools and the Schools Forum over the arrangements for high needs pupils and alternative provision.

Consultation has been undertaken with all schools over these proposals. The Nottingham City Secondary Education Partnership (NCSEP) has indicated the agreement of secondary head teachers to the devolution proposals. Interest has been expressed by a couple of groups of primary schools in piloting the new approach in their areas.

It is the intention to implement the proposal across the whole of the secondary phase simultaneously, but to stagger the primary implementation to review the pilot cluster models. The purpose of the primary model will be to support schools in developing effective models and for all primary schools to be part of the model before April 2017.

Other options considered

The proposals have been revised considerably as a result of feedback from schools during the period of consultation.

7 NOTTINGHAM CITY COUNCIL'S PUBLIC SPACES PROTECTION ORDERS IN RESPECT OF DOGS

The Board considered the Portfolio Holder for Community Services' report, proposing Public Space Protection Orders (PSPOs) which will replace existing Dog Control Orders (DCOs) and the Nottingham City Council Dog Fouling Order 1998. This will require dog owners to keep their dogs on a lead when walking their dogs on highways and other specified places, and require them to put dogs on a lead when required to do so by authorised officers. This will also exclude dogs from specified places, replace existing requirements to remove dog faeces from specified land forthwith and require dog owners to ensure that they carry equipment to clean up after their dog.

RESOLVED to

(1) note the results of the consultation on the proposal to revoke the following Dog Control Orders made under the Clean Neighbourhoods and Environment Act 2005:

- (i) The Nottingham City Council Fouling of Land by dogs and dogs on leads by direction (Chediston Vale Open Space and Children's Playground) Order 2011;**
- (ii) The Nottingham City Council (Lenton Abbey Estate Dogs on Leads Order 2012;**

- (iii) The Nottingham City Council (Lenton Abbey Estate) Fouling of Land by Dogs Order 2012;**
 - (iv) The Nottingham City Council (Dales Ward) Fouling of Land by Dogs Dog Control Order 2014;**
 - (v) The Nottingham City Council (Dales Ward Urban Areas) Dogs on Leads Dog Control Order 2014;**
 - (vi) The Nottingham City Council (Dales Ward) Dogs on Leads by Direction Dog Control Order 2014;**
 - (vii) The Nottingham City Council (Dales Ward) Dogs Exclusion Dog Control Order 2014;**
 - (viii) The Nottingham City Council (Dales Ward) Dogs on Leads Dog Control Order 2014;**
- (2) note the results of the consultation on the proposal to make an Order to revoke the Nottingham City Council Dog Fouling Order 1998 made under the Dogs (Fouling of Land) Act 1996;**
- (3) note the results of the consultation on the proposal to introduce the following Public Space Protection Orders (PSPOs):**
- (i) Nottingham City Council Dogs on Leads by Direction Public Spaces Protection Order 2016 (Proposed PSPO 1) for the areas of land within the administrative area of the Council that are open to the air and to which the public are entitled (with or without payment) which are shaded in green on the plan in Proposed PSPO 1 (Restricted Area 1);**
 - (ii) Nottingham City Council Dogs on Leads Public Spaces Protection Order 2016 (Proposed PSPO 2) for all land in the administrative area of the Council that is open to the air and to which the public are entitled or permitted to have access (with or without payment) other than the land that Proposed PSPO 1 and Proposed PSPO 3 apply to (Restricted Area 2);**
 - (iii) Nottingham City Council Dogs Exclusion Public Spaces Protection Order 2016 (Proposed PSPO 3) in respect of any clearly demarcated children's play area, areas designated as being of special scientific interest, areas designated as local nature reserves or school land (Restricted Area 3);**
 - (iv) Nottingham City Council Fouling of Land by Dogs and Requirement to Produce Device for or Other Suitable Means of Removing Dog Faeces Public Spaces Protection Order (Proposed PSPO 4) for all land in the administrative area of the Council that is open to the air and to which the public are entitled or permitted to have access (with or without payment) (Restricted Area 4);**
- (4) authorise the Head of Legal Services to make the PSPOs in the form indicated in Proposed PSPOs 1 to 4 in respect of Restricted Areas 1 to 4 as detailed in resolution 3 above, such PSPOs to last for a period of three years from the date that they come into force unless extended or varied, as satisfied that the test in Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 is met, and having regard to the rights of freedom of expression and freedom of assembly;**

- (5) to set the fixed penalty amount for offences committed to the PSPOs at £70 if paid within 14 days, reduced to £35 if paid within 10 days;**
- (6) to authorise the revocation of the eight Dog Control Orders referred to in resolution 1 above and authorise the Head of Legal Services to make an Order to revoke the Nottingham City Council Dog Fouling Order 1998 referred to in resolution 2 above, the revocations to take effect once the PSPOs made under resolution 4 above come into force;**
- (7) to authorise the Director of Community Protection to carry out the necessary advertisements and arrange for appropriate signage to be erected in accordance with the legislative requirements.**

Reason for decision

A need has been identified to control various problems associated with dogs in relation to nuisance and annoyance to the public across the council's administrative areas. The problems are often caused by irresponsible dog owners allowing their dogs to intimidate citizens in Nottingham and 'run amok' within the urban areas of Nottingham, and on public open spaces without being under the full control of their owners. Dog fouling has also been one of the major anti-social issues constantly highlighted across all wards within the administrative area of Nottingham by citizens. The complaints range from dog faeces being left on footpaths, the smell and even the serious diseases that can be conveyed which can result in blindness.

Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 provides the council with the power to make a PSPO if it satisfied on reasonable grounds that:

- i. activities carried on in a public place within the council's area have had a detrimental effect on the quality of life of those in the locality, or it is likely that activities will be carried on in a public place within that area and that they will have such an effect;
- ii. the effect, or likely effect, of the activities is, or is likely to be, of a persistent or continuing nature, is, or is likely to be, such as to make the activities unreasonable, and justifies the restrictions imposed.

It is considered that the restrictions in proposed PSPOs 1-4 are proportionate, necessary and reasonable. When deciding whether to make requirements or restrictions on dogs and their owners, local councils need to consider whether there are suitable alternatives for dogs to be exercised without restrictions. Under the Animal Welfare Act 2006, owners of dogs are required to provide for the welfare needs of their animals and this includes providing the necessary amount of exercise each day. Nottingham City Council have included publicly accessible parks and other public places across the administrative area of the council which dog walkers can use to exercise their dogs without restrictions save that should the dog be worrying others, officers can request the dog be put on a lead for the remainder of the duration that the dog continues to be in the area.

The effect of the Order PSPO1 will be to ensure that dogs have the space and freedom to exercise off the lead on the specified land across the administrative area of Nottingham which is required under the Animal Welfare Act 2006. The PSPO

introduces the additional power to authorised officers to request that a dog is only put on a lead if it is worrying other park users or animals which is not an unreasonable request.

The effect of Order PSPO 2 is to ensure that both the health and safety of dogs and citizens are maintained throughout Nottingham. Dogs will be required to be kept on a lead on the specified land across Nottingham in order to ensure they do not run out into traffic and harm themselves and others and to also ensure that other citizens feel safer walking past dogs who are under the proper control of their owner which will assist in reducing the number of injuries to both dogs, other animals and humans which are caused by dogs who are not under the proper control of their owners.

The effect of Order PSPO 3 is to exclude dogs from various places in a more official manner than currently in force. Dogs are already excluded from children's playgrounds and it is common practice across Nottingham therefore this will provide no differences to what is currently in place other than to give authorised officers additional powers to tackle irresponsible dog owners who allow their dogs into places where they are excluded.

The effect of PSPO 4 will provide similar powers to the Nottingham City Council's Dog Fouling Order which has been in place for 18 years. The addition of the requirement to produce the means to remove dog faeces supports the City Council's need to keep the streets clean from dog faeces and increase public health and safety by ensuring that dog owners take responsibility of their dog at all times.

The restrictions proposed are therefore reasonable, proportionate and satisfy the Animal Welfare Act 2006 whilst also providing the citizens of Nottingham with additional safety from dangerous and uncontrolled dogs. Evidence gathered shows that there are problems related to dogs and that although various powers are already in place, further action is required.

When considering a PSPO the council must have a particular regard to the rights of Freedom of Expression and Freedom of Assembly set out in Articles 10 and 11 of the Human Rights Convention. The purpose of the proposed PSPOs is to prevent those that are causing evidenced ASB from continuing and to control their dogs in a responsible fashion. It is intended that those going about their business in a peaceful and lawful manner would not be unreasonably affected by the prohibitions in the proposed PSPOs.

The council can consider extending the PSPOs for a period of up to a further three years following the expiry of these Orders. There are no limitations as to the number of times that the council can extend these orders once made.

Other options considered

Do nothing. There are existing powers to control various problems associated with dogs in (parts of) the administrative area of Nottingham: Order under the Dogs (Fouling of Land) Act 1996, the Dog Control Orders under the Clean Neighbourhoods and Environment Act 2005, and Byelaws. The existing powers do not apply consistently across Nottingham, and the large number of different Orders has left a confusing patchwork of powers, particularly in relation to owners who have not

removed their dog's faeces from the land forthwith in different parts of Nottingham. Existing DCOs are subject to transitional provisions in any event, and government guidance suggests that councils could review the need for their current orders ahead of that transition to simplify the enforcement landscape. No power currently exists to require owners to carry suitable bags to remove their dogs' faeces in any event.

There are other powers available to control dogs, such as education and engagement, early intervention using non-statutory measures, Acceptable Behaviour Contracts, injunctions, Criminal Behaviour Orders, dispersal powers and other dog control legislation for example the Dangerous Dogs Act. Examples of these powers are details in the 'Dealing with irresponsible dog ownership Practitioner's manual' dated October 2014. These powers, other than education, are generally only effective in dealing with the wider issues experienced across Nottingham. Court Orders such as CBOs and Civil Injunctions can be issued, however this approach has also proven costly and time consuming. The council will continue to be able to use these measures where appropriate.

8 DATES OF FUTURE MEETINGS

RESOLVED to meet at 2.00pm on the following Tuesdays:

28 June 2016

19 July 2016

20 September 2016

18 October 2016

22 November 2016

20 December 2016

17 January 2017

21 February 2017

21 March 2017

18 April 2017