

## NOTTINGHAM CITY COUNCIL

### EXECUTIVE BOARD

**MINUTES of the meeting held at Ground Floor Committee Room - Loxley House, Station Street, Nottingham, NG2 3NG on 16 July 2019 from 1.33 pm - 1.52 pm**

#### **Membership**

##### Present

Councillor David Mellen (Chair)  
Councillor Cheryl Barnard  
Councillor Eunice Campbell-Clark  
Councillor Neghat Khan  
Councillor Rebecca Langton  
Councillor Sally Longford (Vice Chair)  
Councillor Dave Trimble  
Councillor Sam Webster  
Councillor Adele Williams

##### Absent

Councillor Linda Woodings

#### **Colleagues, partners and others in attendance:**

Councillor Kevin Clark  
Councillor Andrew Rule

Alison Challenger	- Director for Public Health
Ian Curryer	- Chief Executive
Melanie Fretwell	- Principal Enforcement Officer - Community Protection
Chris Henning	- Corporate Director for Development and Growth
Laura Pattman	- Strategic Director of Finance
Janine Walker	- Head of SEND and Vulnerable Pupils
Kate Morris	- Governance Officer

#### **Call-in**

Unless stated otherwise, all decisions are subject to call-in. The last date for call-in is 25 July 2019. Decisions cannot be implemented until the working day after this date.

### **22 APOLOGIES FOR ABSENCE**

Councillor Linda Woodings – Council Business

### **23 DECLARATIONS OF INTERESTS**

Councillor Sam Webster declared an interest in item 7, Loan to Nottingham City Homes Enterprise Limited (NCH E Ltd) for Market Rent property acquisition, as an outgoing Board Member of Nottingham City Homes.

This did not preclude him from speaking on the matter as following Item 4, appointments to Outside Bodies he would no longer be on that Board.

## **24 MINUTES**

The minutes of the meeting held on 18 June 2019 were confirmed as a true record and were signed by the Chair.

## **25 APPOINTMENTS TO OUTSIDE BODIES**

The Board considered the report of the Portfolio Holder for Energy, Environment and Democratic Services seeking approval of nominations and appointment to Outside Bodies. The Portfolio Holder outlined the importance of these appointments meaning that Nottingham City Council is able to influence nationally, regionally or locally in respect of the community as a whole or in respect of certain sectors of the community. Unless otherwise stated all appointments are made for a 4 year period.

### **RESOLVED to:**

- (1) Agree, subject to confirmation with the Charity Commission where necessary, the following deletions of bodies from Register A:**
  - Civic Enterprise Nottingham Ltd
  - Gas Fund Trustees
  - Nottingham High School
  - Pakistan Community Centre Management Committee
  
- (2) Agree to the nomination / appointments to Outside Bodies as set out in Register A with amendments confirmed by the Board highlighted.**
  
- (3) Agree to transfer the following body to the Register of Bodies appointed to by Area Committees as it is relevant to one particular ward:**
  - Wollaton Park Golf Club Management Committee
  
- (4) Note that appointments are not required to the following bodies at this time:**
  - NET Development Board
  - SPLAT (Speaking, Learning, Acting Together)
  
- (5) Note the organisations contained in Register B (the register for Area Committee Appointments) and to delegate appointments to those organisations to the relevant area committees together with responsibility for adding to or deleting organisations from Register B.**
  
- (6) Note the revised process for managing Outside Bodies as laid out in appendix C published with the agenda;**

### Reasons for recommendations

Appointments to Outside Bodies need to be kept up to date to reflect changes in Council Membership following local elections

Approval of these recommendations helps to ensure that the bodies to which the Council appoints remain relevant to its business

Procedures are in place to maintain the register proactively and accurately during each four-year term.

#### Other Options Considered

The other option considered was not to make the nominations / appointment to Outside Bodies. This option was rejected as it would deny the City Council a voice on a number of key local, citywide and national organisations.

## **26 EXTENSION TO NOTTINGHAM CITY COUNCIL'S PUBLIC SPACES PROTECTION ORDERS IN RESPECT OF DOGS - KEY DECISION**

The Board considered the report of the Portfolio Holder for Regeneration, Safety and Communication seeking approval for the extension of existing Public Spaces Protection Orders (PSPO's) in respect of dogs across its administrative area.

The PSPO's were originally approved in May 2016 by Nottingham City Council's Executive Board and were designed to address various problems associated with dogs in relation to nuisance and annoyance to the public across Nottingham City.

The Board agreed that the PSPO's had been working well and were a fair and balanced way to address the issues. The PSPO's will be extended as they currently stand. Any extension of area, or addition of areas where dogs are banned would be subject to public consultation and approval by this Board.

#### **RESOLVED to:**

- (1) To authorise extensions to the following Public Spaces Protection Orders ("PSPOs"), having been 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 so that they remain in effect for a further period of three years from the 25<sup>th</sup> September 2019,:**
  - (i) Nottingham City Council Dogs on Leads by Direction Public Spaces Protection Order 2016 ("PSPO 1") Appendix 1**
  - (ii) Nottingham City Council Dogs on Lead Public Spaces Protection Order 2016 ("PSPO 2") Appendix 2**
  - (iii) Nottingham City Council Dogs Exclusion Public Spaces Protection Order 2016 ("PSPO 3") Appendix 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 2016 ("PSPO 4") Appendix 4**
- (2) To carry out the necessary advertisements and arrange for appropriate signage to be erected or amended where necessary in accordance with the legislative requirements**

### Reasons for recommendations

Before the Dog Control PSPOs were made in 2016, there were significant problems caused by dog related anti-social behaviour, nuisance and disorder across the whole city of Nottingham. Reports received showed that the problems were often caused by irresponsible dog owners allowing their dogs to intimidate citizens in Nottingham and run amok within the urban areas of Nottingham without being under the full control of their owners. Evidence showed that these issues impacted greatly on the quality of the life for the residents, visitors and businesses alike by intimidation to citizens, posing a danger to citizens and traffic control, and damage to play equipment, street furniture and the wildlife and trees. It undoubtedly had a detrimental effect on the quality of life of those in the locality.

Evidence gathered in the areas where the Council had previously implemented Dog Control Orders showed a reduction in dog related nuisance and disorder through the use of associated powers. Dog Control Orders were repealed under the Anti-social Behaviour, Crime and Policing Act 2014 ("the 2014 Act") and replaced by PSPOs. As such, the Dog Control PSPOs were implemented across the Council's administrative area to ensure that the problems being experienced at that time were not pushed into neighbouring areas. This ensured that the problems caused by dog related anti-social behaviour, nuisance and disorder across the city were cohesively dealt with effectively.

The powers arising from the Dog Control PSPOs are not intended to disrupt peaceful activities, for example families or groups taking their dog out for a walk but are solely used as a control measure for dogs to be kept under control by their owners at all times. They have successfully supported the Council in its efforts to stop irresponsible dog owners from causing anti-social behaviour and associated harassment, alarm and distress to members of the public.

It continues to be recognised that the most contentious part of the Dog Control PSPOs are where they directly impact on the City's parks. These are important public areas and it is imperative that the correct balance of use is obtained for all park users; this includes suitable and sufficient areas where dogs can safely be exercised 'off lead'. Authorised Officers are trained to only direct that a dog be placed on a lead on this land where necessary to '...prevent a nuisance or behaviour by the dog likely to cause annoyance or disturbance to any other person on any land that [this] Order applies or the worrying or disturbance of any animal or bird.'

The Nottingham City Council Dogs on Lead by Direction Public Spaces Protection Order 2016 has ensured that the correct balance of use has been maintained for all park users and has successfully supported the Council's commitments towards protecting its citizens and providing a safe and friendly environment for all park users and animals. The restrictions are reasonable, proportionate and satisfy the Animal Welfare Act 2006 whilst also providing the citizens of Nottingham with additional safety from dangerous and uncontrolled dogs. .

The Council has undertaken consultation in relation to the proposed extension to the expiry date of the Dog Control PSPOs only. Any other potential amendments to the Dog Control PSPOs would require formal consultation, publicity and notification in accordance with the 2014 Act authorised in accordance with the Council's Constitution first before a decision on any such amendment(s) to the Dog Control PSPOs could be taken.

The purpose of the proposed extension to the Dog Control PSPOs is to ensure a continuation of the prevention of those that are causing evidenced ASB and to control their dogs in a responsible fashion. Those going about their business in a peaceful and lawful manner are not be unreasonably affected by the prohibitions in the Dog Control PSPOs.

#### Other options considered

##### **Doing Nothing:**

If the Council chose to do nothing the existing PSPO's would lapse on 25<sup>th</sup> September 2019 and the powers associated with these Orders will no longer be available.

There are no longer alternative existing powers to control various problems associated with dogs in the administrative area of Nottingham as Nottingham City Council's Executive Board approved the revocation of the Order under the Dogs (Fouling of Land) Act 1996 ("the 1996 Act") in May 2016 in order for it to be replaced by the PSPOs.

The Dog Control Orders under the Clean Neighbourhoods and Environment Act 2005 ("the 2005 Act") were also superseded by the Dog Control PSPOs and are no longer available so for this reason, the option was rejected.

##### **Byelaws**

Byelaws such as the Regulations of Dogs at Robin Hood Chase, Dogs at Woodthorpe Park, on the Old Market Square and the Colwick Park Byelaws have been made in Nottingham and where in force, these Byelaws contain various dog controls, breach of which is an offence. However, they only apply to limited parts of the administrative area of Nottingham and the maximum fine on conviction in the Magistrates' Court for breach is, at most, a level 2 fine. Currently there is no fixed penalty notice available as an alternative to prosecution.

By virtue of Section 70 of the 2014 Act, existing byelaws that prohibit an activity regulated by a PSPO will be of no effect in relation to the restricted area during the currency of the PSPO and so for these reasons this option was also rejected.

##### **Other powers**

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 ("CBOs"), 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 specific individuals and incidents, and have been largely ineffective 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 but reliance on these powers alone was rejected.

## **27 APPROVALS IN RELATION TO THE EXPANSION OF NETHERGATE ACADEMY - KEY DECISION**

The Board considered the report of the Portfolio Holder for Early Years, Education and Employment seeking approval for projects to extend Nethergate

Academy in Clifton. Expansion of this academy will support the delivery of the City Council's Special Education Needs and Disabilities strategy by creating an additional 48 school places for September 2020.

Officers confirmed to the Board that the issue of parking is being addressed. Consideration is being given to a number of options including extension of onsite parking and / or introduction of traffic regulations.

**RESOLVED to:**

- (1) Approve the extension of Nethergate Academy by 48 places subject to consultation being successfully concluded and the necessary approvals in place;**
- (2) Amend the capital programme to reflect the capital funding envelope of £2,137,328 of funding from the Education and Skills Funding Agency (ESFS) phased over three years, noting that £250,000 has already been allocated towards this project previously;**
- (3) Approve the remaining SEND allocation received by the ESFA and an additional £275,000 from other funding sources, towards the cost of construction of the ASD unit at Nethergate Academy;**
- (4) Approve the use and procurement of consultants for mechanical and electrical services as this cannot be resourced in house;**
- (5) Approve the procurement of the contractor in compliance with the Councils financial regulations and procurement policies;**
- (6) Delegate authority to the Director of Legal and Governance to enter into contracts for the services and works;**
- (7) Approve funding of any direct costs and fees associated with Planning Building Control, Design Services and reimburse any project related costs incurred by the school; and**
- (8) Delegate authority to the Director of Major Projects to approve payment of any costs incurred by the school and to authorise reimbursement.**

Reasons for recommendations

This report sets out the approval necessary to deliver a 48 place Autistic Spectrum Disorder (ASD) unit at Nethergate school.

Following extensive consultation, Nottingham City Council (NCC) published a SEND strategy that sets out the principles of the SEND strategy across the city of Nottingham for the next five years. The development of this strategy involved looking at the type and number of places required and reviewing options for increasing provision at SEND schools in order to meet the growing demand for places and identifying priority areas. The first priority identified in this strategy is the expansion of ASD provision at Nethergate by 48 places.

A previous report in February 2019 (DDM 3304) allowed for this work to commence, including early works to allow the school to provide urgently required places by Easter 2019 and to look at the options and costs for delivering a separate 48 place ASD unit.

Other options considered

The first alternative option considered was to do nothing. This option was rejected as the shortfall in provision for pupils with ASD across the City needs to be addressed in order to mitigate an increase in the revenue costs for sourcing specialist provision for other providers that is not suitable in the long term.

The second alternative option was to procure the works through an available framework. This option was rejected, as the scheme is ideal to test the open market to ensure value for money.

**28     LOAN TO NOTTINGHAM CITY HOMES ENTERPRISE LIMITED (NCH E LTD) FOR MARKET RENT PROPERTY ACQUISITION - KEY DECISION**

The Board considered the report of the Portfolio Holder for Planning Housing and Heritage and the Portfolio Holder for Finance, Growth and City Centre seeking approval to provide a loan to Nottingham City Homes Enterprise Limited from an existing loan facility approved by Executive Board in December 2016. The loan will be used to expand the private rent portfolio through the acquisition of private rent properties.

**RESOLVED to:**

- (1) Approve a loan of £20.086m to Nottingham City Homes Enterprise Limited (NCH E Ltd) on the terms set out within the exempt finance advice; and**
- (2) Delegate authority to the Strategic Director of Finance to approve loan drawdown subject to the completion of due diligence as detailed in the exempt advice.**

Reasons for recommendations

Supporting NCH E Ltd to expand their private rent portfolio by providing a loan for the acquisition of private rent properties will help to drive up standards in the private rent sector ensuring well managed high quality properties are made available to rent.

Other options considered

Not providing a loan was also considered. This was rejected as it would be detrimental to the shared objective of improving the private rent sector in Nottingham and would restrict the ability of NCH E Ltd to develop a property portfolio and asset base.

**29     EXCLUSION OF THE PUBLIC**

**RESOLVED to exclude the public from the meeting during consideration of the remaining item in accordance with Section 100A(4) of the Local Government Act 1972 on the basis that, having regard to all the circumstances, the public interest in maintaining the exemption outweighs**

Executive Board - 16.07.19

**the public interest in disclosing the information as defined in paragraph 3 of part 1, Schedule 12A of the Act.**

**30 LOAN TO NOTTINGHAM CITY HOMES ENTERPRISE LIMITED (NCH E LTD) FOR MARKET RENT PROPERTY ACQUISITION - EXEMPT APPENDIX**

**RESOLVED to note the content of the Exempt Appendix**