

11 September 2013

MINUTE EXTRACTS

69/13 Updating Derby's Market Rights

The Council Cabinet considered a report on Updating Derby's Market Rights. Derby could trace the history of providing markets in the city back to 1154, when King Henry II bestowed on the burgesses of the city a Royal Charter, including in which was enshrined the enduring right to stage markets. The privilege was further endorsed in 1204, by King John when a further Charter was granted establishing a market from the evening (vespers) on Thursday to the evening (vespers) on Friday. The rights were in extend in 1229, when King Henry III granted the right to hold a fair during Whitsun week and on eight days either side of the feast of St James the Apostle. Finally, in 1330, the right to hold a market was extended to include Sunday, Monday and Wednesday.

The Charter gave the City of Derby rights to provide markets and limit the ability of others to provide them within the area of its jurisdiction. This was taken as 6 2/3rd miles from the site(s) of an existing charter based market(s).

Recently however, the HM Land Registry had placed in question the legitimacy of these ancient rights on the grounds of their interpretation of Section 117 of the Land Registration Act 2002. The Land Registry contends that the 2002 Act had an overriding effect of removing Market Rights, despite any royal patronage or historic significance of them. Legal advice received was that the Land Registry contention was valid. This overriding right becomes effective from 12 October 2013.

This would mean that Derby would lose its long established market rights from that date and would therefore, be no longer able to resist applications from 3rd parties to establish additional markets or impose reasonable management conditions on the tenants of the existing markets. The provision of markets in the city would in effect become unregulated.

The proposal was therefore to adopt Part III of the Food Act 1984 as the basis for the provision of the markets in the future.

Options Considered

1. It was possible to seek to register Derby's original market rights with HM Land Registry on the basis that they were a 'franchise' drawn from the original Market Charters. However, adopting this approach was far more complex and time consuming. In addition, Derby would still be relying on ancient market rights, some of which were out of date, for the provision and management of markets rather than the modern legislative framework that the Food Act 1984 provided.

2. Despite this it was proposed to retain and formalise the strong link with the original rights and the long history of Derby as a Market Town by seeking to register them with the Land Registry so that they could run parallel with the modern legislative framework of the Food Act 1984.

Decision

1. **To recommend Council to adopt Part III of the Food Act 1984 as the basis for the provision of the markets set out in Appendix 2 to this report.**
2. To request a further report within 6 months setting the details of the proposed byelaws
3. To receive and consider a report within 3 months setting out the proposed schedule of fees and charges, to become effective from 1 April 2014.
4. To authorise, in the interim as a protective measure, the submission of an application to HM Land Registry by no later than 12 October 2013 to register the original market rights.

Reasons

1. To enable Derby City Council to continue to provide and regulate the existing markets and to protect the continued viability of them by resisting further applications to establish additional markets within the city.
2. To ensure that there is an effective regulatory system in place within the Council's administrative area.

73/13 Street Lighting Energy Reduction Project – Invest to Save

The Council Cabinet considered a report on Street Lighting Energy Reduction Project – Invest to Save to demonstrate the spend to save options available to significantly reduce long term energy and carbon costs, associated with the Derby City Council street lighting stock.

The report provided proposals for changing the energy profile of street lighting on traffic routes in the City through the use of new technology.

The report was written to provide the facts and figures necessary to allow the Council to evaluate a request for funding of a system that would reduce energy and carbon costs with a defined saving.

The report demonstrated a viable method of reducing energy and carbon costs with a defined saving and provides the facts and figures.

Options Considered

1. Take no action - energy usage would remain the same for the foreseeable future and the council would need to pay the various taxes on carbon and energy usage as outlined in paragraph 3.3 of the report and pay increased energy costs. In the current financial climate with increasing energy costs this option was not seriously considered as it was clear that action needed to be taken to address the future increasing energy bills and associated carbon costs.
2. Switch off lights - some rural based councils had switched off lights for a portion of the night (part night switching) which had provided reasonable levels of energy saving but had proved very unpopular and had attracted negative press coverage. It had not been considered in an urban environment. This option was also not seriously considered as the council had stated publicly that switching off street lights in Derby City would not occur and in addition, from investigations into other council's policies around the country, no urban environments had considered switch off as a viable choice due to crime and safety issues. The third option was already being considered and implemented in most local authorities around the country. This option provided the only realistic solution to Derby as it would reduce energy consumption in such a way that the street lighting service could be maintained.

Decision

1. To note the predicted increase in energy and carbon costs.
2. To approve the adoption of dimming technology where the street lighting was reduced in such a way that the energy was lowered but the perceived effect to the human eye was minimised. This was the preferred solution for an urban environment where switch-off was not considered a realistic option.
3. To approve the principles for scheme development as indicated in section 4.3.4 of the report.
4. To approve the funding of £1,362,966.03 through borrowing as set out in the report. It was proposed that this would be recovered through indirect energy savings of £33,242.
5. **To recommend Council to approve the additional borrowing for the street lighting energy reduction scheme.**

Reasons

1. Derby City Council's service provider maintained and operated approximately 30,250 street lighting units throughout the city. Derby City Council remained responsible for the procurement and purchase of energy. The Council's overall street lighting energy consumption had been increasing as a result of the need to bring sub-standard lighting installations within the City up to the required UK and European standards for residential and traffic route lighting.

This process had allowed the Authority to remove a significant portion of the risk that old and life-expired apparatus would have posed if they had not been replaced.

2. There were increasing pressures on local authorities to make savings in energy consumption and service costs. The City Council had a target to reduce its carbon footprint by cutting emissions by 25% by the end of 2013-14 as proposed in our Greenhouse Gas Emission Report (September 2012).
3. Street lighting provision was one service area in which various local authorities had made significant energy and cost savings. Our current street lighting energy provision in Derby costs around £1.25 million per year and produces over 6,177 tonnes of carbon emissions (CO₂) based on 2012/13. This accounted for 18% of the Councils total for CO₂ emissions for both electricity and gas combined. As well as energy costs, the Council had to pay charges under the Carbon Reduction Commitment (CRC) Energy Efficiency Scheme. Over the last few years the Council had not had to pay this charge for street lighting as the street lighting team had been able to take advantage of a loophole in the regulations which allowed an exemption to this charge but this would not be available after 2014. In addition to the closure of this loophole, the rules governing CRC payments had been simplified and CRC charges would apply to street lighting from next year costing the Council approximately £99,000 p.a.
4. Unmetered energy costs had increased by more than 56% between 2007 and 2013 which was an increase of more than 8% year on year.
5. Reducing energy use and associated carbon emissions was important. Taking action on climate change was in the best interests of the residents of Derby. Reduced energy consumption also meant reduced energy bills which would save the Council money for the lifetime of the installed street lighting infrastructure. As part of our street lighting strategy, new technology and products were evaluated and wherever possible we actively look to reduce the environmental impact of street lighting. Over the last few years, rising energy prices had made this a higher priority and the need to be proactive in reducing energy consumption had become more urgent.
6. Advances in modern lamp technology and electronic programmable control gear, coupled with the lower and variable lighting levels permissible by the revised British Standards (BS 5489) and EN 13201, means that it was now feasible to achieve energy savings by means of reducing the wattage of the lamps through dimming in certain instances and at certain locations; the right light in the right place at the right time.
7. These methods and techniques were being successfully implemented by other similar urban Councils across the country. Coventry City Council already had a dimming system installed and had recently approved an increased dimming level from 25% light reduction to 40% light reduction after midnight in residential areas and a 50% reduction on traffic routes with times dependent of individual risk assessments of the road similar to this proposal. Leicester City

Council was currently in the first year of a three year roll out of dimming technology which was designed to save energy in a similar manner to this proposal.

75/13 Roman House: Refurbishment for Relocation of Children and Young People's Services

The Council Cabinet considered a report on Roman House: Refurbishment for Relocation of Children and Young People's Services. As part of the budget process 2013/14 to 2015/16 Members approved funding for a project to implement Derby Workstyle Phase 2 at the Beaufort Business Centre (BBC) to support implementation of the Accommodation Strategy. The redevelopment of this building would enable the relocation of up to 500 Children and Young People's Service (CYP) staff in one place and deliver savings associated with the subsequent closure and disposal of a number of peripheral buildings.

In April 2012 Council Cabinet agreed to secure a joint venture partner to refurbish the buildings known as Roman House once it was vacated in early 2013.

Due to the current market conditions, it had not been possible to secure a deal and sell and redevelop Roman House which meant that the Council had been able to give consideration to using this building for CYP rather than BBC as it offers a more central city centre location.

A Feasibility Study had been undertaken to establish whether Roman House could be refurbished to create modern good quality accommodation for Children and Young People's Services rather than the Beaufort Business Centre (BBC).

The Study had confirmed that Roman House could be refurbished and upgraded to accommodate up to 500 staff employed in Children and Young People's Services within an A rated energy efficient building. In addition, with the introduction of a central atrium on Stafford Street, the building could be completely rebranded and significant improvements could be made to the layout and utilisation of the building including creating 1040 square meters (m²) of Grade A lettable office space. This would provide accommodation for up to 210 workstation and 300 full time equivalents under Derby Workstyle.

Options Considered

The 'Do Nothing' option would comprise of leaving the building vacant and on the market in the hope that an interested joint venture partner would come forward in the future. This option was discounted as this end of the Cathedral Quarter was economically depressed and local businesses were suffering as a result the vacation of the whole of the Heritage office development. There was a need to support the regeneration this part of the city and demonstrate the potential to upgrade vacant secondary office stock to good quality Grade A office accommodation.

Decision

1. To suspend the Beaufort Business Centre and the Roman House Joint Venture projects previously approved by Council Cabinet and complete an external and internal refurbishment to rebrand Roman House to provide:
 - modern 21st century modern accommodation for up to 500 staff in Children and Young People's Services

1040 m² of Grade A office space that could be let to generate income for the Council and provide lettable accommodation for 210 workstations.
2. **To approve the transfer of the sum of £5.761m already identified to renovate the Beaufort Business Centre in the Corporate Capital Programme to fund the Roman House project and approve additional borrowing sum of £1.663 million to cover the additional costs of implementing the total scheme.**

Reasons

1. Roman House provided a more central city centre location which would improve access for customers. The modern layout and design of the building would improve customer experience and provide a marked improvement on current facilities for customers in locality bases.
2. To provide good quality accommodation of the same standard as the Council House for staff in Children and Young People's Services and enable them to be integrated and collocated in one building rather than in seven disparate buildings across the city.
3. To deliver a scheme that would make a significant contribution to the regeneration of the Cathedral Quarter and demonstrated the potential to upgrade vacant secondary office buildings to good quality accommodation.
4. This project would enable the vacation and rationalisation of seven buildings in Council ownership. This would support the delivery of the objectives of the Property Rationalisation Project by enabling potential savings in property maintenance and facilities management budgets. Each building would be reviewed as part of the Area Review process agreed by Cabinet and if all were found to be surplus to requirements could be sold to generate a potential corporate capital receipt of around £2 million.
5. To address the fact that despite significant effort, the Council had been unable to sell or secure a joint venture partner for Roman House and as a result it had remained empty since it was vacated in early 2013.
6. Designing Beaufort Business Centre to maximise the potential of Derby Workstyle principles had been constrained by the construction and structure of the building. Roman House had a larger footprint and was a much simpler construction which afforded the creation of a more efficient layout and design providing the Council with better value for money.

7. As well as meeting the brief for CYP services, the proposed refurbishment of Roman House would create a net lettable area of 1040 square meters. This would create capacity for an additional 210 workstations which could be let as Grade A office space and generate potential income which would off-set the costs of borrowing for this element of the project.
8. As Roman House was vacant, it could be redeveloped more quickly than BBC without the need to decant any staff. This would create far less disruption to service users and staff and reduce the one off revenue costs associated with decanting and recanting staff.

76/13 The Derby Plan Refresh 2013-2015

The Council Cabinet considered a report on The Derby Plan Refresh 2013-2015. The report presented a draft of the refreshed Derby Plan 2013-2015 for review by Council Cabinet.

The Derby Plan (formerly the Sustainable Community Strategy) sets the Partnership vision and outcomes for the whole city. The Council Plan would support this by describing the Council's contribution to the outcomes as it was refreshed over the coming months.

Decision

1. To note the contents of the draft Derby Plan as set out in Appendix 2 of the report and approve the adoption of the three Big Ambitions and Spotlights set out in refreshed Derby Plan as the Council's priorities.
2. To refer the Derby Plan, subject to advised amendments, to Council.
3. To refer the Derby Plan to Corporate Scrutiny and Climate Change Board and report comments as an addendum to the Council report as required.
4. To recommend that Council delegate authority to the Chief Executive to make any final amendments to the Derby Plan in consultation with the Leader of the Council as Chair of Derby City and Neighbourhood Partnerships.