

Sandwell Metropolitan Borough Council Statement of Decisions made at a meeting of the Executive on Wednesday, 28 September 2022

Published:

The following decisions were made by the Executive at its meeting on **Wednesday, 28 September 2022**. These decisions will come into force on **05 October 2022**. A decision by the Executive may be called-in (in accordance with Part 4 – Scrutiny Procedure Rules of the Council’s Constitution) by **04 October 2022**. Should you have any queries about any decision that has been made, contact should be made in the first instance to Democratic Services at democratic_services@sandwell.gov.uk. Any declaration of interest made by any member of the Executive is shown below.

	Item	Reason for Decision:	Alternative options:	Lead officer:
5	<p>Q1 Budget Monitoring 2022/23</p> <p>Resolved:-</p> <p>(1) note the financial monitoring position as at 30 June 2022 and refer the report to the Budget and Corporate Scrutiny Management Board for consideration and comment;</p> <p>(2) approve an additional payment of £0.5m to Sandwell Children’s Trust to fund the costs set out at paragraph 4.15;</p> <p>(3) approve the following budget</p>	<p>Section 151 of the 1972 Local Government Act required the Chief Financial Officer to ensure the proper administration of the council’s financial affairs. Budgetary control, which included the regular monitoring and reporting of budgets was an essential element in discharging this statutory responsibility. The recommended treatment of the year end variances supported the financial sustainability of the council.</p>	<p>There were limited alternatives to the recommendations included in this report. Cabinet could decide not to allow the proposed use of reserves by directorates, but this would increase the projected overspend and result in a further reduction in the council’s general fund balance.</p>	

	Item	Reason for Decision:	Alternative options:	Lead officer:
	virements above £1m in line with the revised delegated limits for Cabinet Members and Directors: -			
6	<p>Proposal to Declare the Whole of Sandwell as a Smoke Control Area</p> <p>Resolved:-</p> <p>(1) that the results of the public consultation on the Proposal to Declare a boroughwide Smoke Control Area as detailed in Appendix 1 be received.</p> <p>(2) that the Council be recommended to approve Sandwell MBC 'Declaring' the whole Borough of Sandwell as a Smoke Control Area (SCA) under the Clean Air Act 1993 and replace the existing 51 Smoke Control Areas and ensure that all properties in the Borough are subject to the same legal requirements in relation to the prevention of smoke from building chimneys.</p> <p>(3) that subject to 1.2 above, the Director of Public Health be authorised to revoke the existing 51 Smoke Control Orders and making a single Borough-wide Smoke Control Order, with the Smoke Control Area coming into operation on the date specified in the Order which will not be earlier than</p>	<p>The Council has a legal duty to assess local air quality and where necessary take appropriate action to protect the health of those living and working in the Borough. The declaration of a borough-wide Smoke Control Area was just one of a range measures that Sandwell Council can implement to help reduce the exposure of all its communities to the harmful smoke emissions created by domestic solid fuel burning.</p> <p>Sandwell currently had 51 separate Smoke Control Areas, by extending the SCA to cover the whole of the borough all neighbourhoods would be protected against harmful smoke emissions, at present homes and businesses in approximately 4/5ths of the borough could still legally burn unauthorised fuels (i.e. wood and coal) in non-exempt appliances and on open fireplaces. A borough-wide SCA would address this inequality.</p>	<p>Continue with Existing Smoke Control Areas</p> <p>To continue with Sandwell's 51 Smoke Control Orders means that differing legal requirements would remain for exempted properties compared to other parts of the borough. This was inequitable and would result in mixed messages and potential greater levels of noncompliance by those in existing smoke control areas who consider themselves unfairly penalised. There was not envisaged to be any legitimate reason for objection.</p> <p>Non-exempt solid fuel burning stoves and open fire places had a negative impact on internal and external air-quality and had a significant burden in terms of health costs, both short and long term. If domestic burning in properties across Sandwell continued unchecked and unregulated the impact could negate the technological gains made through cleaner vehicle technology, home energy efficiency and controls of industrial processes.</p>	

	Item	Reason for Decision:	Alternative options:	Lead officer:
	<p>six months from the date of confirmation.</p>		<p>It was envisaged that the use of solid fuel burning stoves and open fireplaces will increase with rising energy prices. At a time when households were facing financial hardship, it is easy to accept wood and coal burning as the cheap solution. Air pollution was already impacting negatively on our economy and health, but if we allowed the increased burning of unauthorised fuels and appliances it would come with a high price tag in terms of health care both now and in the future.</p>	
7	<p>Sandwell Children's Trust - Contract Review</p> <p>Resolved:-</p> <p>1) that the Cabinet, as the decision maker for the Council, in its capacity as sole Member (shareholder) of Sandwell Children's Trust (SCT) a private company limited by guarantee and employer of SCT for the delivery of services pursuant to a Service Delivery Contract (SDC) made between the Council and SCT dated 1 April 2018:</p> <p>a) formally receives the Contract Review</p>	<p>The Service Delivery Contract (SDC) between the Council and Sandwell Children's Trust went live on 1 April 2018. The total contract period was for 10 years with an option to exercise a break after 5 years of operation.</p> <p>The SDC included a requirement for the Trust to produce an annual review each year and a Contract Review at the end of year 4 of operation. There was a joint requirement on the Council to also review the contract at the end of year 4.</p> <p>Schedule 3 of the SDC sets out what should be included in the contract review:</p> <p>the Trust's performance against budgets in the first four</p>	<p>An alternative option would be to recommend to the Secretary of State that the service delivery contract is ended, and that children's social care functions return to the direct management of the Council.</p>	

	Item	Reason for Decision:	Alternative options:	Lead officer:
	<p>Report</p> <p>b) notes the progress made to date by Sandwell Children’s Trust in delivering services as set out in the Contract between the Council and the move from being judged as inadequate to requires improvement to be good.</p> <p>c) agrees the recommendations detailed in the contract review:</p> <p>i) does not recommend to the Secretary of State that the break clause is invoked</p> <p>ii) authorises the Director of Children and Education, in consultation with the Chief Executive of the Council and the Cabinet Member for Children and Education, to agree with Sandwell Children’s Trust revised contractual key performance indicators, to commence on 1st April 2023</p> <p>iii) The requirement to achieve a judgement of ‘Good’ as per the ILACS framework be revised from within four years of contract commencement (March 2022) to the next standard ILACS inspection by Ofsted (within three years of the previous inspection).</p>	<p>(4) Contract Years;</p> <ul style="list-style-type: none"> · demand analysis in respect of the services against assumptions and models in respect of the first four (4) Contract Years; · the Trust's performance of the services against the Performance Targets in the first four (4) Contract Years; · the Trust's proposals for the future operation and performance of the services; · whether the Trust had achieved the standard 'Good' as set out in the Ofsted guidance* within four (4) years of the services; Commencement Date as evidenced by the Annual Self Evaluation and/or any external regulatory inspection; · whether the Trust was achieving the aims and objectives set out in Clause 2 of this Agreement (Aims); and · such other matters that the Parties may agree from time to time. <p>On the completion of the Contract Review process a recommendation must be made to the Secretary of State on whether a Break Notice should be served, and children’s social care functions brought back under the</p>		

	Item	Reason for Decision:	Alternative options:	Lead officer:
		<p>direct management of the Council.</p> <p>The Secretary of State would make the final decision on the serving of the break notice, considering the recommendations of both the Council and Sandwell Children's Trust.</p>		
8	<p>School Organisation Plan 2021-26</p> <p>Resolved: -</p> <p>that Cabinet approve that the 'School Organisation Plan 2021–2026', attached as Appendix 1, in accordance with the statutory obligation placed upon the council under the School Standards and Framework Act 1998 be published.</p>	<p>On 13 April 2022 Cabinet (Agenda Item 5) approved that the School Organisation Plan 2021–2026 be approved as a basis of consultation in accordance with the statutory obligation placed upon the council under the School Standards and Framework Act 1998, and a further report be submitted at the end of the consultation period to seek approval to publish.</p> <p>Public consultation ran from 9 May 2022 to 1 July 2022. Results of the consultation could be found under section 4 of the report. One response was received. It was now recommended that the School Organisation Plan be adopted.</p>	<p>This was a requirement placed on the council by the School Standards and Framework Act 1998. There was no other option available.</p> <p>For at least the last 12 years, the Authority had responded to an unprecedented and significant growth in the birth rate, inward migration and retention levels. Pupil place planning and capital investment had responded to the challenges the growth had presented to the school sector. However, as the birth rate started to ease, but the level of inward migration continues to fluctuate, there was now a need to plan for future provision. The option to do nothing was not a viable option for the council in fulfilling its statutory obligation to provide sufficient school places.</p>	
9	<p>Stock Condition Surveys</p>	<p>This report sought approval to procure,</p>	<p>To continue using the SCD we have</p>	

	Item	Reason for Decision:	Alternative options:	Lead officer:
	<p>Resolved:-</p> <p>(1) that the Director of Housing, in consultation with the Director of Finance, be authorised to prepare tendering documentation and to procure one or more contractors, in accordance with The Public Contract Regulations 2015 and the Council’s Procurement and Contract Procedure Rules, to work on behalf of the Council, to undertake stock condition surveys to our Housing stock;</p> <p>(2) the Director of Housing be authorised to award the contracts, as referred to in (1) above, to the successful contractor(s);</p> <p>(3) that the Director – Law and Governance and Monitoring Officer be authorised to enter into or execute under seal any documentation in relation to the award of the contracts;</p> <p>(4) that any necessary exemption be made to the Council’s Procurement and Contract Procedure Rules to enable the course of action referred to in (1) above to proceed.</p>	<p>award and enter into contract with the successful contractor(s) to undertake stock condition surveys as detailed within the report to continue the substantial investment in the Council’s housing stock.</p>	<p>to inform investment programmes:</p> <p>This option was ruled out because it was felt that the over reliance on cloned data results in a low accuracy level of the current data.</p> <p>To undertake the surveys in-house:</p> <p>This option was ruled out because the Council did not currently have the internal resources available to undertake the significant volumes of stock condition surveys required to meet the recommended 50% of our stock. However, once this commission had been concluded the Council intended to plan and programme a rolling programme of stock condition surveys through internal resources and ensure that the Council’s stock condition data was no more than 5 years old, to ensure compliance with the forthcoming Regulators reportable item.</p>	
10	Improvement Plan Progress	This report provided a quarterly update on	The Value for Money Governance	

	Item	Reason for Decision:	Alternative options:	Lead officer:
	<p>Resolved:-</p> <p>(1) that progress against the Improvement Plan up to 4 August 2022 be received;</p> <p>(2) to receive the Improvement Plan Risk Register;</p> <p>(3) to receive the changes made to the Improvement Plan;</p> <p>(4) to receive any recommendations or comments made by Budget and Corporate Scrutiny Management Board following their meeting on 22 September, and to note that any comments or recommendations made by Audit and Risk Assurance Committee at their meeting on 29 September will be reported to a future Cabinet meeting.</p>	<p>progress against the Improvement Plan agreed by Council on 7 June 2022. The Improvement Plan incorporated all recommendations from the Grant Thornton Governance Review, the LGA Corporate Peer Challenge and the CIPFA Financial Management Review, as well as the Statutory Directions from the Secretary of State for Levelling Up, Housing and Communities.</p> <p>Risk management was embedded within the council's programme management of the Improvement Plan. A risk register had been developed which underpins the council's strategic risk relating to the Improvement Plan (59a 02/22). Cabinet was asked to receive the Improvement Plan Risk Register to provide assurance that risks were being managed effectively and to provide contextual information for future decision making.</p> <p>The Improvement Plan intended to be a live document updated to take account of progress and relevant changes. Changes to the Improvement Plan were tracked through programme management mechanisms. Cabinet was asked to receive the changes to provide assurance that changes are being managed effectively.</p> <p>As part of the Governance and assurance arrangements for the Improvement Plan, Audit and Risk Assurance Committee and Budget and Corporate Scrutiny Management Board would review progress of the</p>	<p>Review was undertaken as part of the external auditor's role to provide assurance on the council's arrangements for securing economy, efficiency and effectiveness in its use of resources. As the report includes statutory recommendations the council had a legal obligation to respond appropriately.</p> <p>The Directions issued by the Secretary of State were a statutory requirement and the council had a legal obligation to respond appropriately. Failure to do so would likely result in further intervention measures.</p> <p>Reviewing progress against the Improvement Plan enabled senior officers and members have oversight of delivery, and take corrective action, as necessary.</p> <p>There were no alternative options to consider.</p>	

	Item	Reason for Decision:	Alternative options:	Lead officer:
		<p>Improvement Plan and utilise the plan for work programming purposes.</p> <p>Both Committees were due to consider progress at their meetings in September. Any recommendations or comments they wish to make to Cabinet would be presented during the meeting for Cabinet's consideration.</p>		
11	<p>Performance Management Framework - Q1 Monitoring</p> <p>Resolved:-</p> <p>(1) that the progress made on developing the Corporate Performance Management Framework be noted;</p> <p>(2) that the Q1 monitoring reports be approved;</p> <p>(3) that the Strategic Risk Register (SRR) as set out in Appendix 8 be noted.</p>	<p>Council approved a corporate Performance Management Framework (PMF) on 12 April 2022, to address the recommendations of the Governance Value for Money Review by Grant Thornton and as a key element of the Council's Improvement Plan.</p> <p>Since April, the corporate PMF had been further refined, built into business processes and performance monitoring information had been gathered for Q1 of 2022/23.</p>	<p>The Directions issued by the Secretary of State, including the requirement to have a performance management framework in place, were a statutory requirement and the council has a legal obligation to respond appropriately. Failure to do so would likely result in further intervention measures.</p> <p>The council had various options on what type of performance management framework to establish. Our approach had been developed through understanding the needs of the organisation and drawing on best practice from other local authorities. As we continue our improvement journey, the PMF would evolve to meet our changing requirements</p>	
13	<p>Council new build homes on land at Hawes Lane, Rowley Regis</p>	<p>The reason for the report was so that the Council was able to develop this site with circa 15 homes as part of the new strategic</p>	<p>Several options were identified but officers believed the recommendation was the most</p>	

Item	Reason for Decision:	Alternative options:	Lead officer:																				
<p>Resolved:-</p> <p>(1) that approval be given to appropriate approximately 4186.2 m2 of land at Hawes Lane, Rowley Regis from the General Fund to the Housing Revenue Account for housing purposes with the accounts being adjusted accordingly and to develop the site with circa 15 new affordable rent council homes, as shown for identification purposes only at Appendix 1;</p> <p>(2) 1.2 That the Director of Finance be authorised to allocate adequate resources from the Council's Housing Revenue Account and the Right to Buy one for one receipts to deliver the scheme as shown below:</p> <table border="0" data-bbox="168 845 761 1252"> <tr> <td colspan="2" style="text-align: center;">Expenditure</td> </tr> <tr> <td>Construction costs</td> <td style="text-align: right;">£4.962m</td> </tr> <tr> <td>RTB Receipts</td> <td></td> </tr> <tr> <td>(£1.985m)</td> <td></td> </tr> <tr> <td>HRA RCCO</td> <td></td> </tr> <tr> <td>(£0.236m)</td> <td></td> </tr> <tr> <td>HRA Funding</td> <td style="text-align: right;">£2.741m</td> </tr> <tr> <td>Borrowing cost</td> <td style="text-align: right;">£1.745m</td> </tr> <tr> <td>Appropriation cost</td> <td style="text-align: right;">£0.406m</td> </tr> <tr> <td>Total</td> <td style="text-align: right;">£4.892m</td> </tr> </table> <p>N.B This excludes the 10% of £489,200 referred to in 1.3 e.</p> <p>(3) that in connection with (1) and (2)</p>	Expenditure		Construction costs	£4.962m	RTB Receipts		(£1.985m)		HRA RCCO		(£0.236m)		HRA Funding	£2.741m	Borrowing cost	£1.745m	Appropriation cost	£0.406m	Total	£4.892m	<p>approach to provide more and better housing in the borough.</p> <p>This project intended to deliver new Council-owned affordable rented properties on a council-owned site being a mix of bungalows, houses and apartments all being built to M(4)2 accessible and adaptable standards.</p>	<p>appropriate choice going forward.</p>	
Expenditure																							
Construction costs	£4.962m																						
RTB Receipts																							
(£1.985m)																							
HRA RCCO																							
(£0.236m)																							
HRA Funding	£2.741m																						
Borrowing cost	£1.745m																						
Appropriation cost	£0.406m																						
Total	£4.892m																						

	Item	Reason for Decision:	Alternative options:	Lead officer:
	<p>above, approval be given to authorise the necessary steps for the delivery of the proposed project, including:</p> <p>a) the Director of Regeneration and Growth in consultation with the Director of Finance and the Director of Housing be authorised to prepare tendering documentation and subsequently procure, in accordance with any statutory regulations and the Council's Procurement and Financial Regulations;</p> <p>b) execute any requirements in accordance with the Homes England Delivery Partner Dynamic Purchasing System (DPS) framework including appointing a contractor/contractors to develop, on behalf of the Council, the proposed housing scheme; to enter into or execute under seal any financial agreement in relation to the Homes England grant on terms and conditions to be agreed by the Director of Finance;</p> <p>c) that any necessary exemptions are made to the Council's Procurement and Contract Procedure Rules to enable the course of action referred to b above to proceed;</p> <p>d) subject to a, b and c above, the Director – Law and Governance and Monitoring Officer be authorised to enter into or execute under seal any documentation in relation to award of the contract and/or</p>			

	Item	Reason for Decision:	Alternative options:	Lead officer:
	<p>development/partnership agreement, Homes England developer status, licence, undertaking, framework joining agreement, any consents or applications required for Planning or Highways appertaining to the delivery of the scheme and any other agreements with the procured contractor(s) and with the Homes England, as may be deemed necessary to facilitate development of the site with a housing scheme as described in below on terms and conditions to be agreed by the Director of Regeneration and Growth;</p> <p>e) the Director of Regeneration and Growth in consultation with the Director of Housing and the Director of Finance be authorised to accept a tender of up to 10% above the approved estimated costs as a contingency to mitigate uncertain market conditions and inflationary cost uplifts.</p> <p>f) subject to practical completion of each property the Director of Housing be authorised to manage and let the properties built in accordance with the Council's housing allocation policy.</p> <p>g) That the following action points identified within the financial appraisal of the funding application by Strategic Finance, be implemented to reduce the risk to the Council:</p> <ul style="list-style-type: none"> • That Cabinet consider the alternatives and are satisfied that the proposal to construct the new build homes will meet the 			

	Item	Reason for Decision:	Alternative options:	Lead officer:
	<p>Council's objectives in the most appropriate manner.</p> <ul style="list-style-type: none"> • That a process is developed to prioritise the development of sites against pre-determined criteria and alternative options for achieving the Council's housing objectives within each locality. • That the site is appropriated from the Council's General Fund to the Housing Revenue Account at a value of £0.406m and the corresponding adjustment to the Capital Financing Requirement made to reflect the appropriation. 			