



Chelmsford City Council Overview and Scrutiny Committee

21 November 2022

Report on Decisions taken under delegation to the Chief Executive

Report by:
Director of Connected Chelmsford

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Purpose

To report on the decisions taken under delegation to the Chief Executive for the period 1 June 2022 to 11 November 2022.

Recommendations

That the report be noted.

1. Background or Introduction

- 1.1. The Constitution of the Council includes, at Part 3 (Responsibility for Functions), details of matters on which the officers of the Council are authorised to take decisions. These are known as delegations to officers and among them is the following, which is delegated to the Chief Executive:

“ Deal with any matter on grounds of urgency, following consultation with the Leader of the Council or the Chair and Vice Chair of the appropriate Committee in respect of non-executive matters.

- 1.2. The decisions taken by the Chief Executive under this delegation are recorded and notified to the public and members of the Council by publication on the Council’s website. On 8 February 2010 the Overview and Scrutiny Committee agreed that a list of those decisions should also be brought to the Committee for information in June and November each year.

2. Latest Decisions

- 2.1. Four decisions were taken under delegation to the Chief Executive during the period 1 June 2022 to 11 November 2022. Summaries of those decisions are attached as appendices to this report.

- 2.2. Members are asked to note the content of the report.

List of appendices:

Appendix 1 – Decisions taken under delegation to the Chief Executive for the period 1 June 2022 to 11 November 2022.

Background papers: Nil

Corporate Implications

Legal/Constitutional: None

Financial: None

Potential impact on climate change and the environment: None

Contribution toward achieving a net zero carbon position by 2030: None

Personnel: None

Risk Management: None

Equality and Diversity: None

Health and Safety: None

Digital: None

Other: None

Consultees:

Director of Connected Chelmsford

Relevant Policies and Strategies:

None relevant

Subject:

Governance Committee Terms of Reference

Date of Decision:

16 August 2022

Decision Number:

4/2022

Background:

As well as members of the City Council, the membership of the Governance Committee comprises three co-opted parish council representatives nominated by the Essex Association of Local Councils. This complies with the Standards Committee (England) Regulations 2008 and ensures that parish councils have an input to the work of the Governance Committee where it affects parish councils and their members.

The parish council representatives are appointed after each scheduled local elections and serve for a period of four years. However, the terms of reference of the Committee are silent on what should happen if an appointed representative resigns as a parish councillor, as has recently happened in the case of one of the members.

To remedy that omission, it was proposed to amend the terms of reference of the Governance Committee to provide for a parish council representative on the Committee to continue to serve for a period of up to 12 months after they resign a parish councillor. This will help preserve continuity of membership, knowledge and expertise while a replacement is sought, nominated and appointed, which can be a lengthy process. The following wording would be added to the "Other Information" section of the terms of reference:

"Parish/town representatives are appointed for a 4 year term by the Governance Committee. Should a parish/town councillor resign from office before this period they may continue to serve as a parish/town council representative on the Governance Committee for up to 12 months after they cease to be a parish/town councillor."

Decision and Reasons for Urgency:

Normally, amendments to the terms of reference of committees are approved by full Council on the recommendation of the Constitution Working Group. However, as the next meeting of the Council is not until December the Legal and Democratic Services Manager consulted members of the Working Group on the proposed change, prior to seeking from the Chief Executive agreement to exercise his powers to take urgent decisions and authorise the required amendment to the Governance Committee's terms of reference. The members of the Working Group had no objection to the change.

Supporting Information:

The Leader and the Constitution Working Group were consulted before taking the decision and had no objection to it.

Subject:

Business Rates Pooling and Pilot for Non-Domestic Rates in 2023-24

Date of Decision:

16 September 2022

Decision Number:

5/2022

Background:

Business Retention scheme

In April 2013 the Government introduced a business rates retention scheme that was intended to create incentives for local authorities to promote business growth over the long term. Under the scheme local authorities are allowed to retain some of the benefit from any growth in non-domestic rates; however, they are also exposed to the risk of reduced income from any reduction in the amounts of Rates collected.

If an authority collects more business rates than the Government has determined they need to fund their services (business rates baseline funding) then these authorities are required to pay over the excess to Central Government in the form of a tariff. Conversely, if an authority's funding requirement is higher than income collected, then they will receive a "top-up" from central government.

There is a levy mechanism built into the Business Rates Retention regime, so that authorities will pay a proportion of their growth to Central Government. The levy rate is set at 50% for Chelmsford City Council, which means the Council will only retain half of the increase in business rates growth over and above a Government set business rates baseline.

The Government has put in place a safety net to protect local authorities from significant negative shocks to their income by guaranteeing that no authority will see its income from business rates fall beyond 7.5% of its spending baseline. The maximum loss for Chelmsford in this instance would be £0.3m.

Business Rates Pooling

As part of the rates retention scheme, authorities can formally seek designation as a pool. The pool will be formed of two or more authorities and enables those authorities to retain a higher percentage of business rate growth by reducing or removing the levy that needs to be paid on any income growth. If an authority experiences negative growth that falls below the Government set 7.5% safety net, the loss needs to be funded by the pool and therefore has an adverse impact on the other authorities in the pool. The Government treat the Pool and its members as one authority and the safety net limit is calculated on overall Baseline funding level of the Pool. It is therefore possible to 'lose' more in a pool.

For 2023/24 it is worth noting that there are some exceptional matters:

- A revaluation of properties will be taking place. So, the rates businesses pay will change, but the Government commits to making the overall impact on the total amount of business rates raised neutral. The pool will therefore not suffer if properties in Chelmsford are reduced in value
- The Government can nationally decide to abolish pools, even after the Council has signed up. This is thought to be unlikely but none the less is possible.

Pool arrangements for 2022/23

Chelmsford entered into an Essex Business rates pool with other Local Authorities in 2018/19 and remained member of the Essex pool in 2019/20, 2020/21, 2021/22 and 2022/23. In 2018/19 the Council received additional income of £1m, in 2019/20 received additional income of £0.6m, in 2020/21 received additional income of £0.8m and in 2021/22 received an additional income of £1.1m from the pool as a proportioned benefit of levy saved that would have otherwise been paid to the Government. The income from the Pool for 2020/21 and 2021/22 is subject to the risk of change during the external audit of member authorities. The lead authority (Essex County Council) is currently estimating £0.8m of additional income from the Pool in 2022/23 for Chelmsford.

Chelmsford's options for 2023/24

The lead authority is required to notify the Government of its intentions for pooling for the next financial year by 22nd September 2022. Essex County Council are therefore seeking a formal confirmation of our intention to remain in the Essex Business rates pool. Depending on the response from other Essex authorities, the options for the pool are to either continue as it is with the current members, to

dissolve completely or to dissolve and seek designation as a new pool for 2023/24 should the pool's membership change.

To provide assurances before entering the pool, historic experience has shown pool membership to be beneficial to the authority, even during the COVID-19 pandemic due to government support. The current pool members have been asked to expressed confidence in being able to maintain their business rates income at a required level for the pool to remain successful. Only one authority does not have confidence and it is expected that they will leave the pool. It is the Government's intention that the revaluation from 1/04/2023 is neutral and therefore should not affect the pool income.

Option 1

Notify the lead authority of the intention to leave the Essex Business rates pool and continue as a standalone authority

- Potential increase from Business Rates growth £0.3m
- Maximum loss £0.3m (7.5% of Government set Baseline need)

Option 2

Join the Essex business rates pool for another year, with the intention to maximise the business rates income retained by the authority. Indicatively the gain to the City Council could be an extra £0.6m. The risk, in the unlikely situation where income for the whole pool falls below its business rates baseline, is that Chelmsford will lose its additional income and will have to proportionately suffer the loss of pool income. The extent of City Council losses will depend on the overall position of the pool. This cannot be accurately quantified until the end of the pool's financial year, but losses could exceed the £0.3m maximum identified in option 1.

Decision and Reasons for Urgency:

The Chief Executive was of the view that option 1 would be of most benefit to the Council. As a decision on whether to join the Pool needed to be made by 22 September 2022, he agreed to exercise his delegated authority to take urgent decisions and authorised the Accountancy Services Manager to negotiate for the Council the terms on which the Council would enter the Pool and to join it if those terms were acceptable.

Supporting Information:

The Leader and the Constitution Working Group were consulted before taking the decision and had no objection to it.

Subject: Acquisition of a High Street Property, Chelmsford

Date of Decision: 4.11.22

Decision Number: 6/2022

Background:

The property being acquired consists of ten flats with ground floor retail units and is considered suitable for the provision of temporary accommodation provided by the Council. The Housing Act 1996 places a duty on Local Authorities to provide accommodation for those that meet the definition of Homeless under the Act. This includes the provision of temporary accommodation until a permanent solution can be found.

The flats are in the upper storeys of the property and are accessed via a separate entrance off the High Street. The property will be acquired once vacant possession of the flats is secured.

The property has been marketed to the owners and the more the Council has negotiated a purchase in line with the valuation provided by Savills. The total cost to the Council of acquiring the property including fees will be £4.315m.

The retail units are let at their open market value

The trading retail tenants have occupied the property over a lengthy period and have recently entered a lease extension to remain at the property. The tenants hold a Dunn & Bradstreet rating of 5A2 and 5A1. These ratings demonstrate the leaseholders are a low credit risk.

The financial modelling undertaken shows that the purchase provides much needed temporary accommodation units at a reduced revenue cost to the Council as the revenue debt financing costs are more than covered by the flat and commercial income. However some provision will need to be made annually to cover the risks of interest rises and retail unit vacancies. The treatment of any surplus will therefore be dealt within the 2023/24 budget process.

Decision and Reasons for Urgency:

The Chief Executive decided to exercise his delegated authority to take urgent decisions and authorise the property purchase. He did so on the grounds that contracts needed to be exchanged urgently and this could not wait until the next Full Council meeting.

Supporting Information:

The Deputy Mayor, Leader and the Cabinet Member for a Fairer Chelmsford were consulted before taking the decision and had no objection to it.

DECISION TAKEN UNDER DELEGATION TO THE CHIEF EXECUTIVE

Subject: Refurbishment of Aquilla House, Waterloo lane Chelmsford

Date of Decision: 4.11.22

Decision Number:

7/2022

Background:

The City Council acquired this property several years ago and it has been occupied by the accountancy firm Rickard Luckin until last year when their lease expired.

The Council has designed and tendered a refurbishment programme of work for this property and the successful tender submitted by AW Hardy. The total project cost including professional fees will be in the over of £2m including contingencies as reported in the Budget update at the Cabinet Meeting of 18th October 2022.

Due to the price volatility in the market for building materials the price agreed in the Tender can only be honoured for a number of weeks and this will expire shortly.

As the original budget for this project was only £1.2m a Full Council Decision is required to approve the increased capital budget. However, given the need to progress with this project an Urgent Decision is required ahead of the next Full Council Meeting.

Once the building has been refurbished the estimated rental value of the fully let property will be higher than the rent previously received. The works will also substantially improve the properties energy performance and capital value.

Decision and Reasons for Urgency:

The Chief Executive decided to exercise his delegated authority to take urgent decisions and authorise the refurbishment programme. He did so on the grounds that there was an urgent need to conclude the refurbishment contract and this could not wait until the next Full Council meeting.

Supporting Information:

The Deputy Mayor, Leader and the Cabinet Member for a Fairer Chelmsford were consulted before taking the decision and had no objection to it.