
CABINET

Wednesday, 22nd March, 2023

Present: Councillor Miles Parkinson OBE (in the Chair), Councillors Peter Britcliffe, Marlene Haworth, Joyce Plummer, Kath Pratt and Steven Smithson

In Attendance: Councillors Noordad Aziz, Munsif Dad BEM JP, June Harrison and Colin McKenzie

326 Apologies for Absence

There were no apologies for absence submitted.

327 Declarations of Interest and Dispensations

There were no reported declarations of interest or dispensations, at this point in the meeting. (Note: Councillor Peter Britcliffe subsequently declared a possible conflict of interest – Minute 340 refers).

328 Minutes of Cabinet

The minutes of the meeting of the Cabinet held on 8th February 2023 were submitted for approval as a correct record.

Resolved - **That the Minutes be received and approved as a correct record.**

329 Reports of Cabinet Members

The Leader of the Council, Councillor Miles Parkinson OBE, provided an update on the Huncoat Garden Village proposals. Following the Cabinet's approval to progress this project, a bid had been submitted to Homes England for some £30m funding. Their National Investment Panel Executive had now endorsed the case for this project and it would proceed to the second stage, during which a detailed assessment would be undertaken. If approved, the project would deliver some 1,800 new homes over a 15 year period. Their final decision was expected during the summer. The current announcement was no guarantee as to future success, but was an important step towards the Council's ambitious grand plan.

Councillor Munsif Dad BEM JP, Leader of the Labour group, welcomed the news and remarked that improved infrastructure was the key to opening up the area for development.

Resolved - **That the verbal reports of Cabinet members be noted**

330 Authorisation for Making Compulsory Purchase Order for Burtons Chambers

The Cabinet considered a report of Councillor Miles Parkinson OBE, Leader of the Council, regarding authorisation for the making of a Compulsory Purchase Order for Burtons Chambers.

The Leader outlined some key points within the report in relation to the process of developing the Town Centre Investment Plan (TCIP) and the resultant Accrington Acre redevelopment, as well as noting the potential to draw in £70m investment, which would build upon £55m of public and private monies already invested. Regeneration of Burtons Chambers had always been an ambition of the Council following its slow decline as retail premises over a period of 20 years. The approvals being sought today would ensure that there would be no delay in progressing the current plans by putting in place the necessary authorisations. The acquisition of the relevant freeholds had been resolved, but dialogue was still on-going in relation to leaseholders. Good progress was being made and, ultimately, a CPO might not be required.

Councillor Dad commented that he was satisfied that all the correct steps were being undertaken to progress the project. The Leader added that the whole scheme was something of a jigsaw, but all of the pieces were now falling into place. This had taken a lot of hard work by the stakeholders, officers and consultants.

Approval of the report was a key decision.

Reasons for Decision

The report:

- Updated Cabinet on progress to date with the acquisition of interests in two interventions within the Council's Levelling Up Funding (LUF) programme.
- Invited Cabinet to authorise the making of a Compulsory Purchase Order (CPO) under Section 226(1)(a) of the Town and Country Planning Act 1990 to acquire compulsorily land, existing rights and interests at Burtons Chambers where agreement could not be reached in order to deliver the comprehensive 'Accrington Acre' redevelopment which was the subject of the LUF submission.
- Set out details of the proposed order lands by way of a draft CPO plan included as Appendix C to the report.
- Sought approval for the Executive Director (Environment), following consultation with the Executive Director (Legal & Democratic Services) to agree compensation and acquisition payments where this would avoid the need to compulsorily purchase interests.

The report included detailed information on the following matters:

- Background and the need for redevelopment;
- Appointment of a preferred developer and partner/operator;
- Land assembly and obtaining clean title to the land;
- Description of the Order Land;
- Description of interests in the Order Land (The interests to be acquired in the Order Lands were set out in the draft CPO Schedule provided as Appendix D to the report, which appeared in the private part of the Agenda (Minute 338 refers));
- The need for a Compulsory Purchase Order;
- Details of attempts to acquire interests by agreement;
- The planning position of the Order Land; and
- Funding.

In summary, the recommendations were brought forward in order to progress the redevelopment of the 'Accrington Acre' and contribute to the implementation of the TCIP.

If the Accrington Acre redevelopment did not take place, then not only would the area continue to decline and have an increasing negative impact on the town centre as a whole, but it would not benefit from the investment needed for it to become a vibrant and competitive centre able to meet the changing needs of the public.

Making the CPO was the most realistic option available to the Council to acquire all the interests necessary to facilitate the proposed redevelopment of the Order Land within the funding timescales if sale by agreement was not achieved. Compulsory purchase processes were fair and reasonable, providing those affected with the opportunity to object and providing the statutory framework for compensation, with a process for disputed compensation claims to be settled by the Upper Tribunal of the Lands Chamber, if required.

Alternative Options considered and Reasons for Rejection

The Council's preference was to acquire the Order Land by agreement with those with an interest in the Order Land. However, this could not be guaranteed and therefore a CPO would be needed where agreement could not be reached in a timely manner.

Resolved

(1) Subject to satisfactory compliance with the appropriate subsidy control regime requirement and both the Council and the Department for Levelling Up, Housing and Communities signing a Memorandum of Understanding to secure the LUF monies and having concluded that the acquisition of all interests at Burtons Chambers (61-79 Blackburn Road, Accrington, BB5 1JJ) will facilitate the commencement of the redevelopment and improvement of the 'Accrington Acre' within the approved strategic Town Centre Investment Plan (TCIP) and that such a redevelopment is likely to contribute to the achievement of any one or more of the following objectives:

- (a) The promotion or improvement of the economic well-being of the area;**
- (b) The promotion or improvement of the social well-being of the area;**
- (c) The promotion or improvement of the environmental well-being of the area,**

Cabinet resolves to take all necessary steps to make and secure the confirmation and implementation of a Compulsory Purchase Order (CPO) to acquire compulsorily all or part of the land shown edged red and coloured pink on the plan (Order Land) attached at Appendix C entitled 'Map referred to in the Hyndburn Borough Council (Burtons Chambers) Compulsory Purchase Order 2023' (the CPO Map), together with all rights and interests affecting that

land (which may be extinguished or overridden) in order to enable the implementation of the first intervention in the 'Accrington Acre' redevelopment. Those steps include the publication and service of all notices and the presentation of the Council's case at any public inquiry if required.

- (2) That Cabinet resolves to delegate authority to the Executive Director (Environment), following consultation with the Executive Director (Legal & Democratic Services):

 - (a) to finalise the wording of the CPO and the Statement of Reasons and to make any final adjustments as may be necessary to reduce the boundaries of the CPO Map and take all steps necessary to make and confirm the CPO;
 - (b) to take all steps to seek to acquire any or all of the necessary interests in the Order Land by agreement or by utilising and implementing any confirmed compulsory acquisition powers;
 - (c) to negotiate and agree the terms of such acquisitions, settle claims for compensation and to enter into such agreements or deeds necessary for the acquisition of all or part of the Order Land;
 - (d) that if the Secretary of State authorises the Council to do so, to confirm any CPO made.
- (3) That Cabinet resolves to utilise, where appropriate, either the general vesting declaration procedure under the Compulsory Purchase (Vesting Declarations) Act 1981 or the notice to treat procedure under Section 5 of the Compulsory Purchase Act 1965 in respect of the confirmed CPO.
- (4) That Cabinet authorises, under Section 6(4) of the Acquisition of Land Act 1981 to dispense with individual service of notices in respect of land where the Council is satisfied that it has not been possible following the making of reasonable inquiry to establish ownership of the land in question and for the service of notices in the manner set out in Section 6(4) of the Acquisition of Land Act 1981.
- (5) That in agreeing to recommendations (1) – (4) above, Cabinet has considered the provisions of the Human Rights Act 1998 so far as they might be applicable in deciding whether or not to make the CPO and all other statutory powers that the Council seeks to exercise and resolves the following:

(a) **With regard to Article 8 it is considered that in balancing the rights of the individuals who are affected by the CPO against the benefit to the community of proceeding with the CPO, the making of the CPO resulting in the interference with the individuals rights is justified in the interests of improving the economic, environmental and social well-being of the 'Accrington Acre'.**

(b) **With regard to Article 1 Protocol 1, it is considered that the interference with the individual's property is justified by the advantages accruing to the public by proceeding with the redevelopment of the 'Accrington Acre' particularly taking into account the fact that there is a legal right to compensation for the property taken and any rights extinguished under the CPO.**

(6) That in agreeing to recommendations (1) – (4) above, Cabinet has had due regard to the Equality Act 2010.

331 Amendment to the Rules, Regulations and Procedures for Hackney Carriage and Private Hire Licensing

The Cabinet considered a report of Councillor Joyce Plummer, Portfolio Holder for Resources, seeking approval for an amendment to the Rules, Regulations and Procedures for Hackney Carriage and Private Hire Licensing in relation to the current testing regime.

Councillor Plummer outlined the issues contained within the report, which related to the frequency of testing for vehicles over 10 years old. Numerous representations had been received from the taxi trade directly and via elected Members. Vehicles over 10 years old were currently tested every 4 months and issued with a 4 months licence on each occasion.

The trade had been consulted about reducing the frequency of testing to 6 monthly where a vehicle had passed the 4 monthly test first time on 3 consecutive occasions. A relatively low response had been received to the consultation, comprising 16 replies.

Members were reminded that public safety must be at the centre of any changes to the policy about vehicle testing. The report set out options for a change to the conditions. Options which incentivised drivers to maintain their vehicles to a high standard were recommended by the officers.

The Leader thanked Councillors Sajid Mahmood and Loraine Cox for bringing the issues to the attention of the Portfolio Holder.

Councillor Dad queried whether the amendments as presented in the report at Paragraph 6.1 were to be taken together, or were mutually exclusive options. It was clarified that only one of the two suggested conditions should be adopted. The Leader indicated a preference

for Option 1, which had been the wording used during the consultation process. Councillor Dad considered that Option 2 would be simpler to understand from the drivers' viewpoint.

Councillor Dad commented that Licensing Officers had a good track record of listening to the views of the Taxi Liaison Group, as had been demonstrated when considering the matter of disabled passenger seats.

Councillor Steven Smithson added that he and Councillor Plummer had recently met with officers at the Central Vehicle Maintenance Unit (CVMU) to introduce some measures that would assist taxi drivers. Councillor Dad asked if the emissions testing equipment was properly calibrated. Councillor Smithson responded that the equipment had been checked recently by the Driver and Vehicle Standards Agency (DVSA) and found to be accurate. Councillor Britcliffe added that certain manufacturers had misrepresented emissions performance and were being challenged for compensation by claims companies.

Approval of the report was not deemed a key decision.

Reasons for Decision

The Council were responsible for setting the vehicle testing frequency for hackney carriage and private hire vehicles, which in turn determined the period of the licence that was issued. Currently vehicles under the age of 2 years were tested annually and issued with a 12 month licence. Vehicles between the age of 2 years and 10 years were tested every 6 months and issued with a 6 month licence and vehicles over the age of 10 years were tested every 4 months and issued with a 4 month licence.

At a recent Taxi Liaison Group meeting representatives of the trade had requested that the Council consider looking at the testing frequency of vehicles over the age of 10 years old and to allow them to be tested every 6 months instead of every 4 months, as was currently the case. This would bring Hyndburn's testing regime in line with the neighbouring authority of Blackburn with Darwen Borough Council.

Figures from the Council's testing center taken over the last 6 months showed that of the vehicles under the age of 7 that had been tested there was a 67.5% pass rate and a 32.5% fail rate. However, the fail rates increased in vehicles that were over the age of 7 to 58.8% pass rate and a 41.2% fail rate. Unfortunately, no analysis of the fail rates of vehicles over the age of 10 years was available.

A consultation had carried out with members of the taxi and private hire trade as well as with members of the public. Sixteen responses had been received of which twelve were from the taxi and private hire trade and four were from elected members. Of the sixteen responses received from the trade nine had been fully in favour of the proposal and seven had suggested that they would like all vehicles over the age of two years to be given a six month licence but without the additional conditions set out in the proposal below.

The proposal that was consulted upon was as follows:-

“All vehicles over the age of 10 years will be subject to a 4 monthly test. If the vehicle passes the test at the first attempt on 3 consecutive occasions it will go to twice yearly testing. If the vehicle subsequently fails two 6 monthly tests consecutively at first attempt it will revert to a 4 monthly test.”

Members of the trade had elected a number of representatives to attend the Taxi Liaison Group meetings to raise any issues and make any suggestions for improvements, and the Taxi Liaison Group had been consulted and supported this proposal.

Officers had recommended that Members adopt one of the conditions as set out below:

Option 1

“All vehicles over the age of 10 years will be subject to a 4 monthly test. If the vehicle passes the test at the first attempt on 3 consecutive occasions it will go to twice yearly testing. If the vehicle subsequently fails two 6 monthly tests consecutively at first attempt it will revert to a 4 monthly test.”

Option 2

“If a vehicle over the age of 10 years passes the test on the first occasion it will be issued with a 6 months licence otherwise it will be issued with a 4 months licence.”

It was the opinion of officers that either of the above options would provide an incentive to drivers to maintain their vehicles and encourage them to make sure that pre MOT checks were carried out before submitting the vehicle for test. However the second proposed condition would be easier to administer and in officers’ opinion would be the better option of the two.

Furthermore, the testing regime would be enhanced due to a series of programmed and random spot checks to be carried out by officers.

Alternatively members could determine that they wish to remove the requirement for vehicles over the age of 10 years to have a 4 monthly test and introduce 6 monthly test for all vehicles over the age of 2 years.

Members were also requested to make an amendment to the condition relating to the maximum age a vehicle might be when first presented for licensing. It was recommended that the following condition be applied:-

“A vehicle must be under the age of 15 when first presented for licensing”.

Members were reminded that the above proposed condition would replace a previous condition agreed in January by Cabinet that vehicles must be under the age of 10 years when first licenced. This was following representations from members of the trade and from some elected Members based on the current cost of living crisis. Vehicles would need to pass the Council’s test regardless of age.

Alternative Options considered and Reasons for Rejection

The Council could take no action and continue with the current policy and frequency of testing. However, this could result in more of the Borough’s vehicle owners going to Blackburn to be issued with a licence. This would not prevent them from coming and working in Hyndburn, however, inevitably Hyndburn would not have the same enforcement powers or control over the vehicles and drivers. The Council would have to rely on its neighbours carrying out enforcement action. Furthermore, Blackburn with Darwen Borough Council currently allowed vehicles of any age to be subject to a six monthly test. Officers had no evidence that the vehicles licensed in Blackburn were any more a risk to public safety than Hyndburn licensed vehicles. There were no statistics of high accident rates or other issues.

Resolved

- **That Cabinet approves the amendments to the Rules, Regulations and Procedures for Hackney**

Carriage and Private Hire Licensing as set out below:

- (a) All vehicles over the age of 10 years will be subject to a 4 monthly test. If the vehicle passes the test at the first attempt on 3 consecutive occasions it will go to twice yearly testing. If the vehicle subsequently fails two 6 monthly tests consecutively at first attempt it will revert to a 4 monthly test;**
- (b) A vehicle must be under the age of 15 when first presented for licensing.**

332 Financial Monitoring Report - Revenue Budget 2022-2023 as at Period 10 (January 2023)

Members considered a report of Councillor Joyce Plummer, Portfolio Holder for Resources, providing information on the financial spending of the Council up to the end of January 2023 and the financial forecast outturn position for the Accounting Year 2022/23.

Councillor Plummer highlighted the anticipated positive variance at the end of the financial year, in the sum of £129,000. The figure reflected the higher than anticipated staff pay award and raised energy costs. Energy costs across the Council's estate were being closely monitored. However, good financial management and some financial support from the Government had helped. Inflationary pressures during the year were being managed carefully by budget holders.

Councillor Munsif Dad enquired about the progress towards making weekend burials available and whether the underspend within the Parks and Cemetery Service could expedite this. The Leader responded that tenders had now been returned for this proposal. The Head of Service would now evaluate the replies. Matters such as appropriate fees and charges, health and safety issues and maintaining standards would need to be considered. It was possible that there would be a premium charge for this service. Councillor Dad indicated that other Lancashire authorities provided this type of service and its users were generally prepared to pay a premium.

Councillor Dad also highlighted the issue of dog fouling in cemeteries. The matter had been discussed before and it was acknowledged that most dog owners were responsible, but complaints continued to be received. The Leader accepted that dog fouling did still occur. A small minority of irresponsible owners caused problems in cemeteries, as well as on playgrounds and sports pitches. There were numerous areas available for exercising dogs responsibly. Many people owned dogs and ownership often fulfilled a vital social role as the animals were valued companions, particularly for widowed residents. Councillor Harrison commented that foxes were potentially to blame for some of the fouling. However, it was noted that people were less concerned about issues caused by wildlife.

Approval of the report was not deemed a key decision.

Reasons for Decision

The financial detail of the report was provided as a table at the end of that document.

The latest forecast spend to the end of the financial year in March 2023 was £12,205,000 compared to a Budget of £12,334,000. This forecast produced a positive variance of £129,000 by the end of the financial year.

Environmental Services were predicting a year-end adverse variance of £273,000 and the main variances were as follows:

- Waste Services were predicting an adverse variance for the year of £176,000. This was due to £65,000 of additional staffing costs, £125,000 of increased costs in vehicle fuel and waste supplies and additional income of £14,000.
- The Parks & Cemetery Service was forecasting a positive variance of £68,000, due to additional income of £209,000 largely from burials and cremations netted off by other vehicles and supplies and services costs of £148,000 and staffing savings of £6,000.
- The Town Centre & Market Budget was predicting an adverse variance of £27,000, with £32,000 of additional staffing costs and savings on supplies and service of £5,000.
- Other Environmental Health and Maintenance services were predicting an adverse variance of £138,000 due to reduced income of £72,000 and increased operating costs largely around vehicles and depots of £50,000, plus additional staffing costs of £16,000.

Culture and Leisure Services were indicating a positive variance of £106,000. Service expenditure on Leisure was forecasting a positive variance of £120,000 through reduced management fees, while the Haworth Art Gallery was predicting an adverse variance of £14,000 due to increased expenditure on staff.

Planning & Transportation were predicting an adverse variance for the year of £257,000. This was due to predicted unfinanced additional spend on agency / salary costs of £163,000, £26,000 of extra miscellaneous costs and £68,000 forecast fee income shortfall.

Regeneration & Property Services were predicting an adverse variance of £78,000 at year-end. This was due to £43,000 of additional staffing costs, £93,000 of increased costs largely due to external consultancy fees and costs associated with empty / void investment properties. These additional costs were offset by increased fee income for Disabled Facility Grant works undertaken and one-off additional income from reclaimable premises insurances totalling £59,000.

Policy & Corporate Governance were predicting a positive variance of £129,000. Housing Benefit costs were predicted to be £313,000 lower than budget and additional court fees income of £98,000 was projected. This offset the corporate savings target of £101,000, additional staffing costs of £51,000 and increased costs in various areas as follows: External audit fees £42,000, Banking fees £36,000, ICT supplies and services £30,000, additional costs relating to the by-election £39,000. There were numerous other smaller variances that net to a saving of £17,000.

Non Service Items were predicting a positive variance for the year of £501,000. This was due to forecast savings on borrowing and leasing costs of £301,000 plus additional treasury investment income of £200,000 due to utilising new investment funds and the increase in interest rates available.

The Council was facing a period of inflationary pressure, particularly in relation to energy and fuel costs. The contracts for electricity supply had been renewed from 1st October 2022 and had resulted in large increases of over 150%, although the effect had not yet been felt in full because the Government had provided a compensation scheme up to 31st March 2023. The gas contracts were due to be renewed in October 2023. The budget for 2023/24 assumed large increases of 200% although the situation remained volatile as there had been a recent reduction in prices.

As in the previous two years, if there was a spike in COVID 19 that required the Council to take action to prevent the spread of the virus or to provide additional support to the local community, it was expected that additional funding provided by Government would be used to meet any additional costs the Council incurred.

There were no alternative options for consideration or reasons

- Resolved**
- **That Cabinet notes the report and asks Corporate Management Team to continue to reduce expenditure and increase income so as to further improve the overall financial position of the Council over the remaining months of the year.**

333 Financial Monitoring Report - Capital Budget 2022-2023 as at Period 10 (January 2023)

Members considered a report of Councillor Joyce Plummer, Portfolio Holder for Resources, informing Cabinet of the progress of the 2022/23 Capital Programme.

Councillor Plummer highlighted the key figures within the report. Members commented that the total Capital Programme figure was unusual, in that it was normally in the region of £1m annually. However, over the next few years there would be an enormous investment in the Borough. By working together, councillors and stakeholders could deliver success. Councillors did not wish to waste any of the money secured, which would be put to good use in improving living standards and the health and wellbeing of Hyndburn's residents.

Councillor Dad highlighted the decarbonisation works which had been undertaken at Hyndburn Leisure Centre. He supported the ambition to make the best use of capital expenditure for the benefit the public. The Leader added that the Leisure Centre was now gas free and was probably the first such sports centre in the country. It was acknowledged that the running costs might not initially be cheaper, but the project was helping to protect the environment and costs should eventually fall.

Approval of the report was not deemed a key decision.

Reasons for Decision

The Council had authorised a capital programme of £38.594m at its meeting on the 24th February 2022 and the programme had subsequently been increased to £45.163m upon the authorisation of the carry forward of projects from the previous year and a variety of in-year authorisations using existing internal funds or new external funding. The programme had largely been funded from existing resources with the exception an approval of £5m of borrowing (if required).

The Actual expenditure to 31st January 2023 was £3.275m against the latest approved full year budget of £45.164m. This equated to 7.25% spend. The forecast spend in year would rise to £6.996m including orders committed which would equate to 15.04%.

There was expected to be £38.256m of slippage into 2023/2024, of which £35.87m related to the Levelling Up scheme for Accrington Town Centre, the Leisure Estate Investment and Housing Schemes, including Disabled Facilities Grants.

There were some expected scheme overspends in year totalling £60,680, however additional funding had been identified to cover the additional costs of those schemes and they would not increase the net cost within the capital programme.

The remaining schemes within the programme had identified forecast underspends of £973,221 due to £950,000 of works now having been incorporated into the successful Levelling Up scheme recently awarded. The underspends were to be released back into the capital programme and £940,000 had already been earmarked to be set aside as part of the Asset Management / Fire Safety Compliance works as per the report to Cabinet on 8th February 2023.

The overall net position was that the Capital Programme was forecasting a net underspend of £33,221 in year after the set aside of funds above.

The significant elements of the programme were as follows,

Programme Area	Actual spend to Date £'000	Committed Expenditure £'000	Forecast Outturn £'000
Total Market Renewal Programme	80	28	108
Housing Improvement Programme	818	407	1,224
Levelling Up Fund Programme	0	0	1,080
Leisure Estate Investment Project	580	561	1,141
Other Priority Projects	1,797	2,645	3,443
Total	3,275	3,641	6,996

The detail of individual project budgets and expected costs to complete the projects was provided as an Appendix to the report.

There were no alternative options for consideration or reasons

Resolved - **That Cabinet notes the progress on capital expenditure to date.**

334 The Proposed Use of Alternate Fuel for the Council's Vehicle Fleet

Members considered a report of Councillor Steven Smithson, Portfolio Holder for Environmental Services, on the proposed use of an alternate fuel for the Council's vehicle fleet.

Councillor Smithson outlined the recommendations in the report. He reminded Members of the Council's declaration of a climate emergency and highlighted the fleet's annual diesel usage and the case for switching to Hydro Treated Vegetable Oil (HVO). The alternate fuel would be 22% more expensive than diesel, but this had been budgeted for.

The Leader noted that green options were not always cheaper but were the right thing to do for the planet and the Borough. The measures complemented work already undertaken to install solar panels on Council buildings and plans to switch to electric vans.

Councillor Dad welcomed the report and confirmed the Labour Group's shared vision and support for this initiative. Councillor Peter Britcliffe, Deputy Leader of the Conservative Group, welcomed the proposal and acknowledged that green measures might not be the cheapest option. However, given the bleak picture painted this week in the latest report released from the Intergovernmental Panel on Climate Change (IPCC) who advised the UN, action was required as soon as possible.

Approval of the report was not deemed a key decision.

Reasons for Decision

In September 2019 the Council had declared a climate change emergency and committed to reducing carbon emissions to net zero by 2030.

A recent assessment of the Council's total CO₂ emissions had calculated that the Council was responsible for the production of approximately 2,700 tons of CO₂ per annum during the implementation of its duties.

Currently all vehicles in the Council's vehicle fleet were run on diesel fuel and the Council used approximately 180,000 litres of diesel each year. The Council had 54 vehicles which produced approximately 500 tons of CO₂ per annum via exhaust emissions. This equated to approximately 19% of the Council's total CO₂ emissions.

One way of reducing CO₂ emissions produced by the Council's fleet was by using HVO instead of diesel to fuel the vehicles. HVO was a renewable diesel substitute which was chemically very similar to regular diesel. However, as a result of the manufacturing process, it reduced net CO₂ emissions by up to 90% (which would equate to a reduction of 450 tons in relation to the Council's fleet), as well as significantly reducing NO_x and particulate matter from the diesel fleet.

HVO was a second generation biofuel and as such was a 'drop in' fuel meaning that no adaptations to the operational fuel infrastructure, vehicle or vehicle maintenance were necessary. Other local authorities in Lancashire and across the UK were using HVO and had reported no operational issues or additional vehicle maintenance required when using HVO.

As the use of HVO would lead to a reduction in NO_x and particulate matter from vehicles emissions (in addition to reducing net CO₂ emissions) it was anticipated that another benefit of using HVO would be improved air quality in the Borough.

HVO was more expensive than diesel (currently 22% more expensive) and as such it would cost more to run the Council's fleet on HVO rather than diesel. The Council spent approximately £250,000 per annum purchasing diesel fuel, so an additional £55,000 would be required to change to HVO fuel. The additional revenue costs had been included within the Council's budget setting process as it was considered that the environmental benefits outweighed the additional cost.

Alternative Options considered and Reasons for Rejection

Cabinet could choose to continue using diesel as fuel for its vehicle fleet however given the Council's commitment to reach net zero by 2030 it was important that some tangible action be taken. Using HVO would contribute to a reduction the Council's net CO2 emissions of approximately 450 tons per annum.

Consideration was given to replacing diesel vehicles with electric vehicles (EV) however this was not recommended. The main reason was that the ten biggest polluting vehicles in the fleet (refuse collection vehicles or RCVs) could not be swapped to electric vehicles. This was due to the power and drive configuration needed by RCVs to tip waste at Whinney Hill landfill site. Once Lancashire County Council provided a waste transfer station for East Lancashire Authorities, the use of EV could be considered more seriously as the waste transfer station would have a tarmac or concrete base upon which EV could operate effectively. The current costs associated with purchasing EV were significantly higher (in some cases double the cost) than purchasing diesel vehicles, in addition to the cost of installing the EV charging infrastructure needed. It was hoped as EV become more commonplace relative costs associated with purchasing EV would be more comparable with diesel vehicles.

Resolved

(1) That Cabinet notes the recommendation of the Net Zero Working Group.

(2) That Cabinet agrees the Council's vehicle fleet can use Hydro Treated Vegetable Oil (HVO) as a diesel replacement.

335 Livingstone Road - Garage Plots Disposal to Altham Parish Council

The Cabinet considered a report of Councillor Kath Pratt, Portfolio Holder for Housing, Health and Wellbeing, seeking authority to negotiate, agree terms and dispose of a garage site at Livingstone Road, Accrington, at nil consideration, to Altham Parish Council,

Councillor Pratt outlined the background and main reasons for the proposed decision.

The Leader commented that he worked closely with the Parish Council, as that authority operated within his ward. He noted that the adjacent allotment site had been transferred to the Parish Council a number of years ago. Those allotments were well managed and the Parish council had a good track record of improving facilities. Councillor Dad welcomed the proposals. As the beneficiary of a building transfer by Lancashire County Council for a community centre many years ago, he understood the benefits if this type of transaction. However, it was essential to protect the Council's interests in any future capital receipt by the inclusion of an overage clause in the title transfer.

Approval of the report was not deemed a key decision.

Reasons for Decision

A request had been received from the Altham Parish Council to transfer the freehold of the garage plots at Livingstone Road, as shown edged red on the plan provided as Appendix 1 of the report, to Altham Parish Council (APC) for a nil consideration. The request represented an opportunity to transfer this asset to the Parish Council, a lower tier of local

government, to facilitate the management of local assets and give local people a stake in the future of their area.

Adjoining the garage plot site were allotments which had been transferred to Altham Parish Council in 2017 at nil consideration pursuant to Section 9 of Schedule 29 Local Government Act 1972. This legislation was specific to allotments and did not extend to the garage plots.

The site currently offered 7 garage plots that were all let and provided an income of £714 per annum. The site did not incur any expenditure, but was not considered to be a critical operational site by the Allotments Officer, who did not object to the disposal.

The nil consideration offered by APC for the garage site was below the development market value of £28,700 and, as such, Cabinet needed to be satisfied that in the event of the disposal of the garage site to APC, this was likely to contribute to the promotion or improvement of economic, social and / or environmental well-being of the Borough or part of the Borough.

APC had provided supporting information with their offer which claimed they had built a good working relationship with the allotment holders and the Parish members over the last 2/3 years. The work undertaken by both APC and allotment holders had improved the allotments. APC claimed it had invested funds and reinvested the income from the allotments by way of clearing the vacant allotments, re-sizing to a more manageable size, providing new fencing and access gates, cleaning and managing the areas around the allotments and garage plots.

It was the aim of the APC to repeat the success of the allotments and work with current garage tenants to make improvements and re-invest the income derived from the garage tenancies to improve individual garage plots and enhance the local environment. Ongoing local management of the site and areas leading to the allotments would further improve the local environment for the benefit of immediate users and visitors to the area and the Parish of Altham as a whole.

APC was also keen to attract and engage with more volunteers from the local community and other gardening groups which would go some way to help tackle issues of inactivity, poor mental health and isolation to name just a few benefits of the social interaction and outdoor activities the APC could offer to more people if this disposal was approved.

Subject to this approval, it was advised that an overage clause be included in the contract for sale. The overage was recommended to be 100% and would enable the Council to recover from APC any increased value that might result should the community use change and subsequent benefits to the community be lost, and or if the site was sold for development.

Subject to Cabinet's considerations, this proposal was an opportunity to transfer the property to the Parish Council, a tier of local government, enabling local management of assets. The proposed sale at under value could achieve the requirements of the General Disposal Consent 2003 where the disposal was likely to secure or promote improvement in the economic, social or environmental well-being of the Altham Parish area as follows:

- Economic – this was an opportunity to raise funds alongside the rents to invest in the site creating work locally, in turn sustaining the property for the long term benefit of the local community

- Social – this was an opportunity to empower Altham Parish Council by putting the property in their direct control, giving it a greater stake in the local community. This in turn would help bring local people together and help to put local pride into the property and promote community cohesion and build community confidence.
- Environmental – planned investment and improvements in the property would have direct long term environmental benefit sustaining the site for the long term

Alternative Options considered and Reasons for Rejection

The site could be sold at Market Value which was £28,700, but this would not support APC in their community activities by providing them with an annual income that could be invested into the site and which it was aimed, would greatly improve the environmental amenities for users and visitors of the allotments and garages.

The site could be leased but APC had indicated that they wished to have the freehold giving them greater autonomy of the combined allotment and garage site and also to make use of the income generated by the garage rents to carry out environmental improvements to the site as a whole.

The Council could retain the site but there were currently insufficient resources to carry out any improvements which could be detrimental to the allotments where the APC had already made improvements.

Resolved

- That Cabinet:

- (1) Considers the report and is satisfied that the disposal of the garage site, shown edged red on the plan at Appendix 1 to the report (“the property”), to Altham Parish Council, is likely to promote the improvement of the economic, social or environmental well-being of the Altham Parish for the reasons specified in the report; and**
- (2) Subject to Paragraph (1) above, gives consent to dispose of the property at nil consideration to Altham Parish Council and delegates authority to the Head of Regeneration and Housing to finalise and agree the detailed terms for the disposal in consultation with the Executive Director (Legal and Democratic Services) and the Portfolio Holder for Housing, Health and Wellbeing.**

The following item was taken next during the meeting.

336 Hyndburn Leisure Transformation - Investing in the Health of Hyndburn

In accordance with Regulation 11 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, approval was obtained from Councillor Patrick McGinley, Chair of the Resources Overview and Scrutiny Committee, to the following decision being made by Cabinet on 22nd March 2023, under the

special urgency provisions for key decisions, on the grounds that the decision was urgent and could not reasonably be deferred.

Members considered a report of Councillor Marlene Haworth, Deputy Leader of the Council, informing the Cabinet of work undertaken by independent consultants to the Council on potential alternative sites for the development of the proposed new leisure facility. The additional report had been carried out in response to stakeholder feedback, highlighting concerns regarding the independence of the previous site options report.

In addition, the report sought approval to amend the delegated authority in place for the project. Delegated authority for this project had previously been agreed to the Deputy Chief Executive. As a result of the delegated person retiring from the organisation, the report identified a new director to delegate these responsibilities to.

Councillor Haworth outlined the main elements of the report, including the overarching need to increase public participation in health and wellbeing and the delivery of an investment plan to address the issue of ageing facilities via Hyndburn Leisure. She reminded Members of the option sites considered by the consultants.

Each site had been assessed objectively using the same criteria. Wilson Playing Fields was the independent consultants' recommendation. The site was already an established leisure and sports location. Wilson had a good balance of access, parking facilities, links to countryside walks, which would support the site's long term management and deliverability. None of the other sites were considered to be suitable.

The report to Cabinet also reinforced the Council's commitment to repurposing Mercer Hall and reiterated that it was no longer suitable for use as a leisure facility. That building was not large enough and any extension proposed would be costly given the heritage considerations. The building did however have potential for other uses. It was an attractive structure and remained a positive addition to Great Harwood town centre. There was now an opportunity to reinstate some of the original features of the historic building.

The proposed new leisure facility at Wilson Playing Field would be financed by up to £10M from the Council. A funding application had also been made to Sport England for £2M. The outcome of that bid was awaited. An application would also be made to the Council's capital fund in 2023 to deliver feasibility work at Mercer Hall.

The Leader commented that the process had continued over many years and had been well documented in numerous reports. The emotional attachment of some residents to the existing leisure facilities was understood, but the decision had to be taken with the head rather than the heart. It was still the intention to repurpose Mercer Hall, as had been done with Great Harwood Town Hall, Bank Mil House and Churchfield House. Other uses for the building were canvassed three years ago, but there had been a campaign to keep a pool in Great Harwood. Members were reminded that the proposals had come from Hyndburn Leisure and that the Opposition Leader, as a member of the Trust's Board, had been fully engaged in this process. The issue had inevitably been seized upon during various election campaigns.

The Council remained committed to investing in Mercer Hall. However, Hyndburn Leisure needed to keep its business model under review in order to remain viable, so as to be able to deliver leisure and health benefits across the Borough. The Trust was, in fact, doing well and was sought out by its peers for advice as an example of good practice.

Councillor Dad concurred that Hyndburn had poor health and wellbeing outcomes, particularly around obesity and the impacts of COVID-19, which needed to be addressed.

Mercer Hall remained an iconic building and its best future use needed to be identified. He queried the use of the analogy at Paragraph 3.1 of the report, comparing exercise to a pill. However, he was pleased to see a new options report, as the previous report had not been viewed by some as sufficiently independent.

The Leader responded that the reference to exercise as a pill was somewhat tongue in cheek, but illustrated the point about the need for cost effective prevention of ill-health. The Council had been able to cease its annual subsidy to Hyndburn Leisure of around £1m, freeing up those resources for other uses. In addition, sports provision would be available through Hyndburn Leisure's operation of the facilities at Hyndburn Academy in Rishton (recently announced as a new build school under the Government's Schools Rebuilding Programme) and Accrington Academy and the facilities provided by Accrington Stanley Community Trust.

Councillor Harrison congratulated Hyndburn Leisure on their good work over the last few years.

Approval of the report was a key decision.

Reasons for Decision

The report included a detailed introduction to the overall proposals and the following information:

Site Location for the New Leisure Facility

In response to stakeholder feedback, highlighting concerns regarding the independence of the previous site options report, a second study had been commissioned, led by a new, independent consultant who had no prior involvement with the review process or with any of the proposed alternative sites. In commissioning a further site options report, officers had accepted that the conclusions of the previous site options report were potentially rendered unreliable by a conflict of interest on the part of one of the authors who was also involved in developing proposals for the Wilson site. When considering the new site options report and the recommendations in this report, Members were asked to consider this matter and their preferred site afresh, having regard to the documents appended to the new report and disregarding the recommendations of the previous site options report.

The new site options report had considered the following sites:

- Mercer Hall, Queen Street, Great Harwood, BB6 7AL;
- Wilson Playing Fields Clayton Hall Drive, Clayton Le Moors, BB5 5SF;
- Windsor Recreation Ground, Great Harwood, BB6 7AU;
- Land at Alan Ramsbottom Way, Great Harwood, BB6 7UR;
- Former Gas Holding Site, Great Harwood, BB6 7UA.

In assessing these sites the new site options report had considered the following:

- An overview of the objectives and 'specifications' of the Hyndburn Leisure Transformation Project and specifically a proposed replacement pool and associated facilities;
- An overview of relevant national and local planning and other policy to place the site-specific review in context;
- A review of the potential sites;

- A comparative assessment of the sites; and
- Conclusions and recommendations.

All of the sites had been evaluated and assessed using the same criteria to ensure a fair and consistent approach.

The new site options report reflected site visits and desk-top research. It drew on complementary, supporting assessments which were appended to the report. These were:

- Socio-Economic and Accessibility Appraisal; and
- Mercer Hall Building Appraisal.

The study recommended that Wilson Playing Fields should be considered the preferred option for the reasons, and on the basis of the evidence, set out in the new site options report. The site was already an established leisure and sports location, located between Great Harwood and Clayton le Moors. There were immediate and existing links to good quality sports facilities and links to countryside walking routes. It offered a good balance between accessibility, impact on participation, long term management and deliverability.

The study concluded that no other option sites were wholly suitable to accommodate the required development.

The Future of Mercer Hall

An independent external study had considered the potential to refurbish or upgrade the building to accommodate the identified leisure requirement.

The study highlighted that the building was not currently large enough to do this, in particular to accommodate the 25m/ 4-lane swimming pool. Further, the supporting spaces were disparately located across the building, with convoluted access routes which were often narrow and without natural light.

The study stated that the fitness suite and dance studios appeared of an adequate size, but might not suit any growth in demand in the Borough, as they were fairly small in comparison to other local authority leisure centres which had been built more recently.

It was identified that a significant programme of work would be required to bring the current facility up to the standard which patrons could reasonably expect and that given the constrained size of the existing building, it would be necessary to extend the building in some way to accommodate an increased leisure provision.

The study concluded that Mercer Hall did not offer the possibility in its own right to provide the level and quality of accommodation required to support continued use as a leisure centre aligned with the identified spatial requirement in the Borough. The pool was small in size and even with a full refurbishment to repair the tank from leaks, it would not comply with current Sport England guidance on layout/arrangement or size for either the pool tank or the changing areas.

However, the study identified that the facility did have potential for continued operation for other uses. The central hall in particular had the potential to offer significant opportunity for a variety of community-facing uses either if the swimming pool were to be filled in, or even if it were to be retained.

There were no alternative options for consideration or reasons

Resolved

- **That Cabinet:**
 - (1) Notes the equality impact assessment attached to the report;**
 - (2) Agrees to replace the current Mercer Hall leisure facility and Wilson Pavillion with a new facility at Wilson Playing Fields, as detailed in paragraph 4.5 and supported by the Site Options Analysis Study (Appendix 1);**
 - (3) Agrees to progress feasibility work to repurpose Mercer Hall, to ensure that it remains a community asset;**
 - (4) Agrees to delegate authority to the Council's section 151 officer to agree the terms of the proposed development management agreement with Alliance Leisure Ltd pursuant to the terms of the UK Leisure Framework and to complete the same, together with power to agree and complete any related agreements or contract variations with Alliance Leisure Ltd or its sub-contractors;**
 - (5) Agrees to delegate authority to the Council's section 151 officer to agree the terms of, and complete, any necessary agreements with Hyndburn Leisure in respect of the proposed Leisure Estate Investment Programme at Hyndburn Sports Centre and Wilson Playing Fields, including any necessary variation to the lease of the building and any necessary licence to carry out alterations; and**
 - (6) Agrees to delegate authority to the Council's section 151 officer to agree the terms of any grant funding awards from Sport England and other bodies willing to support the Council's leisure investment programme.**

337 Exclusion of the Public

Resolved

- **That, in accordance with Regulation 4(2)(b) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the public be excluded from the meeting during the following item, when it was likely, in view of the nature of the proceedings that there would otherwise be disclosure of exempt information within the Paragraph at Schedule 12A of the Act specified at the item.**

338 Authorisation for Making Compulsory Purchase Order for Burtons Chambers

In accordance with Regulation 5(6)(a) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, approval was obtained from Councillor Josh Allen, Chair of the Special Overview and Scrutiny Committee, to the following decision being made by Cabinet on 22nd March 2023, in private, on the grounds that the decision was urgent and could not reasonably be deferred.

Exempt information by virtue of Paragraph 3 - Relating to the financial or business affairs of any particular person (including the authority holding that information)

Members considered an Appendix, which contained exempt information relating to Agenda Item 5. The Leader provided a brief introduction to the content of the Appendix.

Resolved - **That Cabinet notes the exempt information contained within Appendix D to the Part B report on Authorisation for Making CPO for Burtons Chambers (Agenda Item 5 refers).**

339 Disposal of Property and Land to HARV Outreach Team

In accordance with Regulation 5(6)(a) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, approval was obtained from Councillor Patrick McGinley, Chair of the Resources Overview and Scrutiny Committee, to the following decision being made by Cabinet on 22nd March 2023, in private, on the grounds that the decision was urgent and could not reasonably be deferred.

Exempt information by virtue of Paragraph 3 - Relating to the financial or business affairs of any particular person (including the authority holding that information)

Councillor Kath Pratt, Portfolio Holder for Housing, Health and Wellbeing, provided a short introduction to the report. Councillor Dad spoke briefly in support of the proposals.

Approval of the report was not a key decision.

Reasons for Decision

The reasons for the decision were set out in the exempt report.

Alternative Options Considered and Reasons for Rejection

The alternative options considered and reasons for rejection were set out in the exempt report.

Resolved - **That the recommendations as set out in the exempt report be approved.**

Councillor Peter Britcliffe declared that he had a potential conflict of interest in the following matter due to his son being the secretary of a football club that might be affected by the project. He left the room and took no part in the debate or decision.

340 United Utilities Haweswater Aqueduct Resilience Programme (HARP) Project - Bolton Avenue Playing Fields, Huncoat

In accordance with Regulation 5(6)(a) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, approval was obtained from Councillor Patrick McGinley, Chair of the Resources Overview and Scrutiny Committee, to the following decision being made by Cabinet on 22nd March 2023, in private, on the grounds that the decision was urgent and could not reasonably be deferred.

Exempt information by virtue of Paragraph 3 - Relating to the financial or business affairs of any particular person (including the authority holding that information)

Councillor Kath Pratt, Portfolio Holder for Housing, Health and Wellbeing, provided a short introduction to the report. The Leader and Councillor Dad spoke briefly in support of the proposals.

Approval of the report was not a key decision.

Reasons for Decision

The reasons for the decision were set out in the exempt report.

Alternative Options Considered and Reasons for Rejection

The alternative options considered and reasons for rejection were set out in the exempt report.

Resolved - **That the recommendations as set out in the exempt report be approved.**

Signed:.....

Date:

Chair of the meeting
At which the minutes were confirmed