

COUNCIL
22nd July, 2010

PRESENT – The Mayor; Councillors Armstrong, Baldwin, Barker, G. Cartwright, Copeland, Cossins, Coultas, Curry, Davies, Dixon, Dunstone, Francis, Freitag, Galletley, Harker, Hartley, Haszeldine, L. Haszeldine, Hughes, Jenkinson, Johnson, Mrs. D. Jones, Lawton, Lewis, Lister, Long, D. A. Lyonette, Maddison, McEwan, Newall, Nicholson, Regan, Richmond, Roberts, Robson, Ruck, A. J. Scott, Mrs. H. Scott, Stenson, Swift, Vasey, Walker, Wallis and Williams. (45)

APOLOGIES – Councillors Burton, M. Cartwright, B. Jones, Lee, J. M. Lyonette, Nutt, Swainston and York. (8)

11. MINUTES – Submitted – The Minutes (previously circulated) of the meetings of this Council held on 25th February, 13th May and 20th May 2010.

RESOLVED – That the Minutes be approved as correct records.

12. DECLARATIONS OF INTEREST – There were no declarations of interest reported at the meeting.

13. ORDER OF SEALING DOCUMENTS – Presented – The Register showing the documents which had been sealed since the last meeting of Council.

14. ANNOUNCEMENTS – **(1) Election of Councillor Cossins** - The Mayor extended a warm welcome to Councillor Cossins, who was elected to represent the Cockerton West Ward on 8th July 2010, and who was attending her first Ordinary Meeting of the Council.

(2) Assistant Director – Schools, Improvement and Development – The Mayor paid tribute to Andrew Dunn, the Assistant Director – Schools, Improvement and Development, who was attending his last Ordinary Meeting of the Council, before returning to Primary Headship.

RESOLVED – That the thanks of the Council be extended to the Assistant Director – Schools, Improvement and Development for the work he had undertaken whilst with the Council.

15. QUESTIONS – TO ANSWER QUESTIONS (WHERE NOTICE HAS BEEN GIVEN) FROM – **(1) The Public** – There were no questions from members of the public, where notice had been given, to the Cabinet Member with Portfolio for the Economy.

(2) Members to Cabinet / Chairs – There were no questions from Members, where notice had been given, for the Mayor, Members of the Cabinet, or the Chairs of the Scrutiny Committees.

(3) Members to the Nominated Member of the Police Authority in accordance with Section 20 of the Police Act 1996 – Councillor Johnson asked a question to Councillor Dixon, the nominated Member of the Police Authority, in accordance with Section 20 of the Police Act 1996, and Councillor Dixon replied thereon.

16. COUNCIL REPORTS – (1) Adult Social Care and Supporting People Contracts – The Director of Community Services submitted a report (previously circulated) seeking the approval of the Council to waive Contract Procedure Rules, under Exemption Clause 15, for a period of six months to provide an opportunity to jointly develop a new model of service to meet the day care and support opportunities for people with mental health needs, and undertake appropriate procurement processes to deliver value for money and services which are in line with national and local policy changes.

The submitted report outlined the national and local strategies and drivers that had been developed and implemented, which had changed how Adult Social Care was provided. It was reported that, due to these changes, it had not been feasible to undertake a procurement exercise in isolation, and it was now intended to jointly develop new services.

RESOLVED – That Contract Procedure Rules be waived under Exemption Clause 15 to allow the contracts identified in the submitted report to be extended by six months to enable a new service model to be developed.

REASONS – (a) To enable the continued delivery of services to vulnerable people and allow Officers to complete the redesign of Mental Health Day Opportunities and the manner in which adult social care and supporting people services are provided.

(b) To procure future services which reflect national and local change drivers.

(2) Children’s Services Management Arrangements – The Director of Children’s Services submitted a report (previously circulated) seeking the approval of the Council to make a temporary appointment to cover the duties of the Assistant Director for Schools, Improvement and Development from 1st September 2010 until 31st August 2011.

The submitted report advised Council of the resignation of the Assistant Director – Schools, Improvement and Development, and outlined the reasons for the temporary secondment of an Ofsted Inspector to the role.

RESOLVED – That the post of Assistant Director – Schools, Improvement and Development be filled for the period 1st September 2010 to 31st August 2011 through a secondment from Ofsted.

REASONS – (a) The function must still be carried out.

(b) There is uncertainty about the future scope and funding for the role.

(3) North East Region Joint Health Overview and Scrutiny Committee – The Director of Corporate Services submitted a report (previously circulated) to give consideration to the inclusion of the Terms of Reference and Protocols for the Joint Health Overview and Scrutiny Committee for the North East, within this Council's Constitution.

The submitted report stated that a Joint Health Overview and Scrutiny Committee for the North East had been established, in accordance with Sections 244 and 245 of the National Health Service (NHS) Act 2006. The submitted report outlined the purpose and objectives of the Committee, in relation to its areas of responsibility. The submitted report clarified the membership of the Committee, and the Terms of Reference and Protocols were appended to the report.

RESOLVED – (a) That the establishment of the North East Joint Health Overview and Scrutiny Committee be noted.

(b) That the Terms of Reference and Protocols for the Joint Committee be endorsed, and included within the Council's Constitution.

(c) That this Council's representative on the North East Joint Health Scrutiny Committee be the Chair of the Health and Well-Being Scrutiny Committee.

REASONS – (a) To inform of this Council's involvement in the Joint Committee.

(b) To endorse the Terms of Reference and Protocols for the Joint Committee, and to enable the Constitution to be updated accordingly.

(c) To ensure that this Council is represented on the Joint Committee.

(4) Petition Scheme and e-Petitions – The Director of Corporate Services submitted a report (previously circulated) seeking the approval of the Council in relation to a Petition Scheme for receiving and responding to petitions, to comply with the duty placed on Councils in the Local Democracy, Economic Development and Construction Act 2009.

The submitted report outlined the new duty placed on councils to adopt a Petition Scheme, and provide a facility for residents to petition the council electronically. The submitted report highlighted the requirements of any Petition Scheme, the processes for acknowledgement and verification of petitions, the reasons for possible exclusion of a petition, and the thresholds required to instigate a debate at a meeting of the Council, or compel a Senior Officer to provide evidence to a Scrutiny Committee. A copy of the proposed Petition Scheme was appended to the submitted report.

RESOLVED – That the Petition Scheme be approved.

REASON – To comply with new legislative requirements.

(5) A Review of Policies and Conditions in respect of Hackney Carriage and Private Hire Vehicles, Drivers and Operators in the Borough of Darlington - The

Director of Corporate Services submitted a report (previously circulated) to give consideration to some modifications to the Council's current policies and conditions in respect of Hackney Carriage and Private Hire Vehicles, Drivers and Operators in the Borough of Darlington.

The submitted report provided information in relation to current and proposed policies and conditions in respect of Hackney Carriage and Private Hire Vehicles, Drivers and Operators.

RESOLVED – That the revised Policy and Conditions be approved.

REASON – To provide a safe and comfortable taxi service for travellers in the Borough of Darlington, and simplification for applicants and current licence holders in respect of the standards the Council expects them to maintain.

(6) Longfield School Synthetic Sports Pitch - The Director of Children's Services submitted a report (previously circulated) seeking the permission of Council to waive Contract Procedure Rules under Rule 15, in order to allow Officers to use a list of recommended contractors to procure the construction of a Synthetic Turf Pitch at Longfield School and Sports College.

The submitted report stated that Longfield School and Sports College had successfully applied for a grant of £530, 000, in 2009, from the Department for Schools and Families, to support the construction of a floodlit, synthetic football pitch on the school site. It was reported that the school initially delayed construction of the synthetic pitch with the intention of maximising value for money by combining the funding with monies from the Building Schools for the Future (BSF) programme. The submitted report explained that, as funding was no longer available through the BSF programme, Longfield School and Sports College was required to have a contract for the synthetic sports pitch in place by 31st August 2010, in order to secure the original funding.

RESOLVED – That, subject to Cabinet releasing the capital funding, Contract Procedure Rules be waived to give the Director of Children's Services, or his nominees, delegated powers to shortlist, procure and award a contract for the construction of a synthetic turf pitch at Longfield School and Sports College.

REASON – To enable the appointment of a contractor to ensure the Council meets the Department of Education deadlines.

17. CABINET REPORTS – (1) Overview Reports of Cabinet Members – The Leader and Cabinet Members each gave a report (previously circulated) on the main areas of work undertaken under their relevant portfolio during the previous cycle of meetings.

Cabinet Members answered questions on their portfolios.

(2) Constitution – The Director of Corporate Services submitted a report (previously circulated) seeking Members' approval for the revised Constitution, incorporating in

year changes, and seeking approval for consequential changes to the Scheme of Delegation and Financial Procedure Rules.

The submitted report stated that the Constitution was reviewed annually, and that the proposed revised Constitution appended to the submitted report incorporated a number of changes which had arisen from decisions already taken individually by Council or Cabinet during the last year, and therefore did not require individual decisions. The submitted report also outlined changes to Cabinet, changes to Scrutiny, changes to Protocols, and consequential changes to the Scheme of Delegation and the Financial Procedure Rules.

RESOLVED – That the revised Constitution be approved.

REASON – To ensure that the Council has an up to date and complete record of its decision making processes which is available to Members and the public.

(3) Contract Procedure Rules – The Director of Corporate Services submitted a report (previously circulated) seeking approval for changes to the Contract Procedure Rules.

The submitted report stated that the Council had previously reviewed and revised the Council Procedure Rules to enhance Members' role in procurement and improve the Council's procurement practices. The submitted report advised Members that there had been a significant legislative change in December 2009, following the implementation of the Public Contract (Amendment) Regulations 2009, and that the Council's Contract Procedure Rules had been reviewed to ensure that the rules reflected procurement law and practice. The submitted report also highlighted that further amendments had been made to the rules to make them clearer and more easily understood by Officers engaged in procurement activity.

RESOLVED – That the changes to the Contract Procedure Rules be approved.

REASON – To ensure the Council's Contract Procedure Rules reflect current legislation and that any procurement is legally compliant.

(4) Darlington Local Development Framework: Publication Draft Core Strategy – The Assistant Chief Executive (Regeneration) submitted a report (previously circulated) seeking agreement that the Publication Draft Core Strategy be agreed and published, in accordance with Regulation 27 of the Town and Country Planning (Local Development) (Amendment) Regulations 2008.

The submitted report also requested authorisation for Officers to make minor changes to the Publication Draft Core Strategy and carry out any necessary further consultations with key stakeholders, prior to the submission of the Publication Draft Core Strategy to the Government for Public Examination, in order to ensure a sound Core Strategy. The submitted report advised that the recommendations were supported by recommendations from Cabinet, at its meeting on 13th July 2010, when the Darlington Local Development Framework (LDF) Publication Draft Core Strategy was considered.

RESOLVED – (a) That the Local Development Framework Publication Draft Core Strategy be agreed and published, in accordance with Regulation 27 of the Town and Country Planning (Local Development)(Amendment) Regulations 2008.

(b) That the Assistant Chief Executive (Regeneration), in consultation with the Economy Portfolio Holder, be authorised to make any minor changes to the wording, prior to finalising the Local Development Framework Publication Draft Core Strategy for submission to the Government for Public Examination.

(c) That the Assistant Chief Executive (Regeneration), in consultation with the Economy Portfolio Holder, be authorised to undertake any further consultations that are necessary to enable a sound Core Strategy to be finalised for submission to the Government for Public Examination, in accordance with the timetable of preparation set out in the Council’s Local Development Scheme 2009-2012.

REASONS – (a) To continue to progress towards fulfilling the statutory requirement to have an up to date Local Development Framework in place.

(b) To avoid unnecessary delays in the remaining stages of LDF Core Strategy preparation.

(c) To fulfil the regulatory requirements of Local Development Framework document preparation.

(5) Tees Valley Mineral and Waste Planning Framework – Changes to Draft Documents – The Assistant Chief Executive (Regeneration) submitted a report (previously circulated) seeking authority to publish, and subsequently submit to Government, proposed changes to the draft Development Plan Documents (DPDs), which would guide future minerals and waste development in Darlington.

The submitted report explained the need to publish proposed changes to the draft DPDs, outlined the proposed changes, sought approval to publish the proposed changes to allow representations to be made on them, and, subject to a satisfactory outcome from publication, sought approval for subsequent submission of the draft DPDs and proposed changes to the Government.

RESOLVED – (a) That the publication of the proposed changes to the draft Tees Valley Joint Minerals and Waste Core Strategy and Policies and Sites DPDs, in so far as they relate to the Borough of Darlington, be approved.

(b) That, subject to no substantive amendments to the proposed changes being necessary following publication, approval be given for subsequent submission of the changes, and the draft DPDs, to the Government.

(c) That authority be given to the Assistant Chief Executive (Regeneration), in consultation with the Cabinet Member for the Economy, to make any necessary minor

amendments to the proposed changes prior to publication and submission.

REASON – To enable the adoption in due course of minerals and waste policies in this Council’s Local Development Framework.

(6) Treasury Management Annual Report and Outturn Prudential Indicators 2009/10 – The Director of Corporate Services submitted a report (previously circulated) which provided information in relation to the regulation and management of the Council’s borrowing, investments and cash-flow. The submitted report also sought approval of the Prudential Indicators results for 2009/2010, in accordance with the Prudential Code.

The submitted report outlined the issues and exceptional circumstances with regard to treasury management for 2009/2010, and the implications that these circumstances had had on the Council. It was reported that the Council had reduced its overall external debt by £23.4m during May and June of 2009, and that external debt had not increased since that time. The submitted report stated that borrowing was only undertaken in relation to capital purposes.

The submitted report stated that at 31st March 2010, the Council’s external debt was £80.860m, in comparison to £104.242m at 31st March 2009, with an average interest rate of 3.44%. It was reported that investments totalled £15.290m, in comparison to £39.90m at 31st March 2009, earning interest of 2.17% on short term investments, and 3.29% on long term investments.

RESOLVED – (a) That the outturn 2009/10 Prudential Indicators be noted.

(b) That the Treasury Management Annual Report for 2009/10 be noted.

REASONS – (a) To comply with the Prudential Code for Capital Finance in Local Authorities.

(b) To inform members of the Performance of the Treasury Management function.

(c) To comply with the requirements of the Local Government Act 2003.

(7) Appointment of Legal Representatives – The Director of Corporate Services submitted a report (previously circulated) seeking the approval of Council to waive Contract Procedure Rules under Rule 15 of the Contract Procedure Rules in order to appoint counsel to represent the Council to defend a number of claims.

The submitted report stated that the Council had received a number of claims relating to equal pay, in common with other authorities across the country. The submitted report outlined that the Council required legal representation, however stated that there was a shortage of Counsel working in this area. It was reported that solicitors acting for Counsel in relation to the claims had conducted a thorough evaluation exercise in terms of the quality and cost of a range of Counsel, and had provided details to the Council for consideration. The submitted report requested that Contract

Procedure Rules be waived to allow the appointment of Queen's Counsel and Junior Counsel to provide the Council with representation at the hearings.

RESOLVED – That Council Procedure Rules be waived, under Exemption Clause 15, to allow for the appointment of both Senior and Junior counsel to represent the Council.

REASON – To enable the appointment of appropriate representation in relation to forthcoming hearings.

(8) Cabinet Urgent Decisions – The Corporate Management Team submitted a report (previously circulated) detailing three decisions taken by Cabinet as a matter of urgency and to which the procedure for call-in could not be applied.

The submitted report outlined the procedures to be followed if decisions were taken under the Urgency Rule and the Special Urgency Rule.

RESOLVED – That the urgent decisions taken by Cabinet be noted.

REASON – To comply with the Council's Constitution.

18. SCRUTINY REPORTS – Overview Reports – The five Scrutiny Committee Chairs each gave a report (previously circulated) on the main areas of work undertaken by their relevant Scrutiny Committee during the last cycle of Committee meetings.

19. MEMBERSHIP CHANGES – Consideration was given to membership changes of the Committees, Subsidiary Bodies and Other Bodies for the Municipal Year 2010/11.

RESOLVED – (a) That Councillor Cossins be appointed to fill the vacancies on the Children and Young People Scrutiny Committee, and the Corporate Parenting Panel, for the remainder of the Municipal Year 2010/2011.

(b) That Councillor Maddison be appointed to fill the vacancy on the Local Management Board – Darlington YMCA, for the remainder of the Municipal Year 2010/2011.