

**DECISIONS SHOULD NOT BE IMPLEMENTED
BEFORE MONDAY, 26TH FEBRUARY, 2007**

CABINET
13th February, 2007

PRESENT - Councillor Williams (in the Chair); Councillors Bristow, Dixon, Harker, D.A. Lyonette, McEwan, Thistlethwaite, L. Vasey and Wallis. (9)

ALSO IN ATTENDANCE – Councillor Mrs. Scott.

C135. DECLARATION OF INTERESTS – In respect of Minute C140(1), Councillor McEwan declared a personal and prejudicial interest, as he was a company director of the Tees Valley Connexions Company, and he left the meeting during consideration of that item only.

C136. DEATH IN SERVICE - JIM O'HARA - The Director of Community Services submitted a report (previously circulated) informing Members of the recent death in service on Tuesday, 30th January, 2007 of Jim O'Hara, a valued member of the Environmental Services Street Scene team and requesting that a Minutes silence be held as a mark of respect.

RESOLVED - (a) That it be noted with great sadness the recent tragic death of Jim O'Hara, a respected employee of the Council, and a Minutes silence be held as a mark of respect.

(b) That the actions of the Council in conveying the sympathy to Jim's family and the support offered from the Human Resources service, as detailed in the submitted report, be noted.

REASON - To make Members aware of the recent death in service.

C137. MINUTES - Submitted - The Minutes (previously circulated) of the meetings of Cabinet held on 16th and 30th January, 2007.

RESOLVED - That the Minutes be confirmed.

REASON - They represent an accurate record of the meeting.

C138. MATTERS REFERRED TO CABINET – There were no matters referred back for reconsideration.

C139. ISSUES ARISING FROM SCRUTINY – STREET SCENE AND FURNITURE REVIEW GROUP - GUARDRAILING IN THE TOWN CENTRE - The Cabinet Member with the Highways and Transport Portfolio introduced the report of the Director of Development and Environment (previously circulated) reporting on the further action required in response to one of the findings of the Street Scene and Furniture Review Group, which were fed into the improvement planning stage of the Best Value Review of Street Environment, relating to Pedestrian Guardrailing in the Town Centre. The comments of the Director of Development and Environment, in respect of the review, were included within the submitted report.

RESOLVED – That the recommendations of the Environment Scrutiny Committee, as detailed in the submitted report, in respect of the guardrailing in the Town Centre, be approved.

REASON - To seek Cabinet's approval to the recommendations of the Environment Scrutiny Committee.

C140. KEY DECISIONS – (1) Tees Valley Connexions Company - Disaggregation - The Cabinet Member with the Resource Management Portfolio introduced the report of the Interim Director of Children's Services (previously circulated) requesting that consideration be given to the disaggregation of the Tees Valley Connexions Company, wholly owned by the five Tees Valley authorities, from 31st March, 2007; the transfer of part of the Connexions Service to each of the five local authorities; and to this Council entering into a lease at No. 69 Houndgate, which is the accommodation currently occupied by Connexions in Darlington.

RESOLVED - (a) That the disaggregation of the Connexions Tees Valley Company from 31st March 2007, be approved, by transferring a part of the Connexions Service to each of the five Local Authorities.

(b) That the Director of Children's Services be authorised to execute the transfer arrangements, complete the Transfer Agreement, and process all ancillary and related documentation.

(c) That the Director of Development and Environment be authorised to negotiate and, in consultation with the Cabinet Member with the Resource Management Portfolio, agree terms for a lease of Nos. 6-9 Houndgate.

(e) That the Borough Solicitor be authorised to complete the necessary documentation.

(f) That the Tees Valley Connexions Company and the other four Tees Valley Local Authorities be informed of the decision.

REASONS - (a) The Connexions Tees Valley Company was established in September 2002. It is a company limited by guarantee and is wholly owned by the five Tees Valley Local Authorities. In order for it to disaggregate on 31st March 2007 the Cabinet of each of the five Tees Valley Local Authorities must approve the disaggregation arrangements.

(b) This is necessary to complete the arrangements.

(c) It is necessary to have co-operation and co-ordination of actions across the five Tees Valley Authorities in order to achieve the outcome of a successful disaggregation of the Tees Valley Connexions Company.

(2) Shopmobility Service 2007/08 – Provision - The Cabinet Member with the Highways and Transport Portfolio introduced the report of the Director of Development and Environment (previously circulated) requesting that consideration be given to the extension of the Service Level Agreement (SLA) between this Council and Darlington Association on Disability, for the provision of a shopmobility service for the residents and visitors to Darlington town centre for the period April 2007 to March 2008.

RESOLVED - That the extension of the Service Level Agreement, between this Council and Darlington Association on Disability until 31st March, 2008, be approved.

REASONS - (a) To ensure continuity of provision of a Shopmobility service to local people and visitors to Darlington.

(b) To ensure that the future provision of the Shopmobility Service is undertaken in line with the wider review of the Voluntary and Community Sector.

(3) Source of the Denes Project - The Cabinet Member with Regeneration and Planning Portfolio introduced the report of the Director of Development and Environment (previously circulated) requesting that consideration be given to proposals for the improvement of the Cocker Beck and surrounding areas for a range of purposes, but particularly for biodiversity and informal recreation, following concerns raised by residents of its poor state and potential health hazard.

RESOLVED - (a) That the pilot phase (Phase 1) of the Source of the Denes Project, be approved.

(b) That £73,000 of capital funds be released, to support the Source of the Denes Project.

REASONS - (a) To enable work to begin on implementing the project as soon as possible.

(b) To achieve the combined objectives of improving an important recreational facility as well as significantly enhancing the area's level of biodiversity.

(c) To improve the environmental qualities of the Cockerton area.

(4) Section 106 Funding - Deed of Planning Obligation - Wimpey's, Geneva Lane/South Park and Capital Programme 2006/07 - Release of Funds for Reconfiguration of the Learning Disability Service - The Cabinet Member with the Resource Management Portfolio introduced the report and plan of the Director of Community Services (both previously circulated) requesting that consideration be given to the release of funding associated with the Deed of Planning Obligation, Wimpey's Geneva Lane/South Park, for development of a sports pavilion and equipped play area in South Park, as shown on the plan appended to the submitted report, and other sports facilities within the Borough and capital programme resources for facilities for service users with learning disabilities.

RESOLVED - (a) That £695,011 of Cleveland Bridge Planning Obligation funding be released, for the development of a sports pavilion and equipped play area in the South Park.

(b) That the Director of Community Services be authorised, in consultation with the Leader of the Council, to agree how any remaining funds from the Section 106 funding be utilised to enhance sporting/play provision either in South Park or within the Borough.

(c) That £0.366m of capital funding, previously released for the Reconfiguration of learning disability provision, be used for a new Learning Disability Service at the South Park, linked to the Sports Pavilion.

REASONS - (a) To enable the Council to build a sports pavilion with additional facilities to accommodate Adult Services and Youth Service.

(b) To utilise any underspend from the Planning Obligation funding to the provision of sports facilities or play equipment across the Borough, tying into the Local Area Agreement, in particular focusing on Skerne Park.

C141. SECTION 31 AGREEMENT - LEARNING DISABILITY SERVICES - The Cabinet Member with the Adult Services Portfolio introduced the report of the Director of Community Services (previously circulated) seeking approval to register Darlington's Learning Disability Services under Section 31 (Health Act Flexibilities) of the 1999 Health Act.

RESOLVED - (a) That the use of minor Health Act Flexibilities, by entering into a Section 31 Agreement from 1st April 2007, in accordance with the draft agreement, as detailed in Appendix 1 of the submitted report, be agreed.

(b) That plans to implement the use of Health Act Flexibilities through a Section 31 Agreement from 1st April 2007, be agreed.

(c) That the Borough Solicitor and Director of Community Services be given delegated powers to make amendments to the draft agreement.

(d) That amendments required to the Council's Constitution and Scheme of Delegation, as a result of the acquisition of new statutory functions, be referred to Council for approval.

REASON - A Section 31 Agreement will enable maximisation of Health Act Flexibilities, ensuring that resources are optimised to provide Learning Disability Services of a high quality in Darlington.

C142. OUTCOME OF COMPLAINTS MADE TO OMBUDSMAN - REVIEW - Pursuant to Minute C121/Jan/07, the Leader introduced the report of the Director of Corporate Services (previously circulated) providing Members with an update of the outcome of cases which had been considered by the Local Ombudsman and indicating any points of particular attention and/or referral to the Standards Committee since the last ordinary meeting of Cabinet held on 16th January, 2007.

RESOLVED - That the report be noted.

REASONS - (a) It is important that Members are aware of the outcome of complaints made to the Local Ombudsman in respect of the Council's activities.

(b) The contents of the report do not suggest that further action is required.

C143. LOCAL AREA AGREEMENT - FIRST INTERIM REVIEW - The Leader introduced the report of the Assistant Chief Executive (previously circulated) presenting the outcome of the first mid-year review of the Local Area Agreement (also previously circulated), set in the context of wider Local Area Agreement developments.

RESOLVED - (a) That the first Local Area Agreement interim review rating, as appended to the submitted report, be noted.

(b) That reports on the interim review rating, be submitted to the Local Area Agreement Steering Group and Local Strategic Partnership.

(c) That the necessary on-going commitment to the Local Area Agreement process required by this Council's role as local authority, community leader and accountable body, in the context of new and emerging duties arising from the recent Local Government White Paper, be recognised.

REASONS - (a) To keep all partners aware of the outcome and need of ongoing performance management.

(b) To acknowledge the growing importance of Local Area Agreements in the government's agenda.

C144. PUBLIC PROTECTION FORUM - Submitted - The Minutes (previously circulated) of the meeting of the Forum held on 25th January, 2007.

RESOLVED - That the Minutes be received.

REASON - They represent an accurate record of the meeting.

C145. CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005 - FIXED PENALTY NOTICES - The Cabinet Member with the Consumer and Environmental Services Portfolio introduced the report of the Director of Community Services (previously circulated) requesting that consideration be given to the updating of the delegated powers of the Director of Community Services to take into account changes within the Clean Neighbourhood and Environment Act 2005 and to agree the level of fixed penalty fines.

RESOLVED - (a) That in relation to the Clean Neighbourhoods and Environment Act 2005, the following levels of Fixed Penalty Notices, be approved:-

- (i) a reduced payment level should the Fixed Penalty Notice be paid within seven days;
- (ii) the level of discounts applicable, as set out in paragraph 11 of the submitted report; and
- (iii) the level of fine for Fixed Penalty Notices be set at the default level where discretion exists, as shown in paragraph 12 of the submitted report.

(b) That it be recommended to Council that the change, as shown in paragraph 8 of the submitted report to the scheme of delegation, be approved.

REASONS - (a) To allow the new powers under the Clean Neighbourhoods and Environment Act to be implemented.

(b) To set the level of fine and any discounted charges for Fixed Penalty Notices.

C146. NORTHGATE CONSERVATION AREA CHARACTER APPRAISAL - The Cabinet Member with Regeneration and Planning Portfolio introduced the report of the Director of Development and Environment (previously circulated) seeking approval of the finalised Northgate Conservation Area Character Appraisal (also previously circulated).

RESOLVED - That the Northgate Conservation Area Character Appraisal, as appended to the submitted report, be approved.

REASON - To provide a document to assist in the protection and management of the Northgate Conservation Area.

C147. (URGENT ITEM) MAIDENDALE NATURE AND FISHING RESERVE - PHASE 1 EXTENSION - The Cabinet Member with Regeneration and Planning Portfolio introduced the report of the Director of Development and Environment (previously circulated) seeking approval for the continuation of work at Maidendale Local Nature Reserve to develop a reserve for both public and wildlife.

RESOLVED - That the extension of Phase 1 of the project, as detailed in the submitted report, be agreed, and the release of £50,000 capital funding and £31,000 revenue funding, to undertake the project, be approved.

REASON - To enable work to begin on implementing the extension of Phase 1 of the Project as soon as possible.

C148. COMMERCIAL STREET - COMPULSORY PURCHASE ORDER - The Cabinet Member with the Resource Management Portfolio introduced the report of the Director of Development and Environment (previously circulated) requesting that consideration be given to the Council's preferred developer for Commercial Street and requesting that, in principle approval be given, to the use of compulsory purchase powers on land to bring forward development.

RESOLVED - That subject to the necessary legal requirements being met and the costs of any action being funded by the developer, in principle approval be given to invoke compulsory purchase powers to achieve the Commercial Street development.

REASONS - (a) In principle, to confirm and reinforce the previous resolution.

(b) To achieve development set out in the Council's Town Centre Development Strategy.

(c) To enhance the economic well-being of the town centre.

C149. LOCAL PUBLIC SERVICE AGREEMENT - FINAL REPORT - The Cabinet Member with the Resource Management Portfolio introduced the report of the Assistant Chief Executive (previously circulated) informing Cabinet of the achievement against targets, as agreed as part of Local Public Service Agreement (LPSA) for Darlington, and to outline the steps required for claiming the reward grant.

RESOLVED - That the report be noted and endorsed

REASON - To ensure that the performance reward grant achieved is claimed within the timescale.

C150. DARLINGTON AND STOCKTON PARTNERSHIP - The Cabinet Member with the Resource Management Portfolio introduced the report of the Director of Corporate Services (previously circulated) updating Members on the detailed design work that had been undertaken looking into the potential for joint working between Darlington and Stockton Council's.

RESOLVED - (a) That the progress made to date in forming a partnership with Stockton Borough Council, be noted.

(b) That the signing of a Statement of Intent to deliver the partnership, be approved.

REASON - (a) To keep Members informed.

(b) To demonstrate ongoing commitment to the Partnership.

C151. FINANCIAL AND SERVICE PERFORMANCE REPORT - THIRD QUARTER 2006/07 - The Cabinet Member with the Resource Management Portfolio introduced the report of the Director of Corporate Services and the Assistant Chief Executive (previously circulated) reporting on the Council's financial and service performance for the period April to December 2006.

RESOLVED - (a) That the satisfactory progress of service performance compared with targets, as detailed in the submitted report, be noted.

(b) That the projected overspend of £0.012m compared with approved budget, be noted.

REASON - To continue effective management of service and financial performance and improvement of value for money.

C152. CAPITAL PROGRAMME - QUARTERLY MONITORING REPORT - DECEMBER 2006 - The Cabinet Member with the Resource Management Portfolio introduced the report of the Director of Corporate Services (previously circulated) presenting an update of the capital programme and looking at spending and resource levels.

RESOLVED - (a) That the 2006/07 updated Capital Programme, as appended to the submitted report, be noted.

(b) That the projected under and over spends, as detailed in the submitted report, be noted.

REASON - To allow Members to note the progress of the agreed Capital Programme and agree changes to the Capital Programme.

C153. MEMBERSHIP CHANGES - No membership changes were reported at the meeting.

C154. EXCLUSION OF THE PUBLIC - RESOLVED - That, pursuant to Sections 100A(4) and (5) of the Local Government Act 1972, the public be excluded from the meeting during the consideration of the ensuing items on the grounds that they involve the likely disclosure of exempt information as defined in exclusion paragraphs 1 and 3 of Part I of Schedule 12A to the Act.

C155. COMMERCIAL STREET (EXCLUSION PARAGRAPH NO. 3) - The Cabinet Member with the Resource Management Portfolio introduced the report of the Director of Development and Environment (previously circulated) on a request from the Council's preferred developer for Commercial Street to enter into a joint venture arrangement with the owners of Queen Street Shopping Centre and transfer its interest in the Development Agreement with the Council to that of a Limited Partnership and seeking approval to include an additional small area of Council-owned land, as shown on the plan appended to the submitted report, into the Development Agreement, to be formalised through a Deed of Variation.

RESOLVED - (a) That the establishment of a Limited Partnership company, to carry out the development on the basis described in the submitted report, and subject to the matters outlined in paragraph 8 of the submitted report, be approved.

(b) That the inclusion of the small area of land within the Development Agreement, a shown on the plan appended to the submitted report, be approved.

(c) That the Borough Solicitor be authorised to complete the documentation as necessary.

REASONS - (a) To confirm the previous resolution.

(b) To achieve development set out in the Council's Town Centre Development Strategy.

(c) To benefit the economic well-being of the Borough.

(d) To maximise a revenue stream for the Council consistent with the above objectives.

C156. SCHEDULE OF TRANSACTIONS (EXCLUSION PARAGRAPH NO. 3) - The Cabinet Member with the Resource Management Portfolio introduced the report and schedule of the Director of Development and Environment (both previously circulated) requesting that consideration be given to the schedule of transactions and seeking approval for the terms negotiated.

RESOLVED - That the schedule, as appended to the submitted report, be approved and the transactions be completed on the terms and conditions detailed therein.

REASON - The terms negotiated require approval by Council before binding itself contractually to a transaction.

C157. SCARGILL COURT, LASCELLES PARK, DARLINGTON (EXCLUSION PARAGRAPH NOS. 1 AND 3) - With the prior approval of the Leader to the matter being treated as urgent, in order to allow a decision to be made at the earliest possible date, the Cabinet Member with the Resource Management Portfolio introduced the report and plan of the Director of Development and Environment (both previously circulated) seeking authority to negotiate with two holders of the current long leases on the Scargill Court parade of shops and the adjacent Lascelles Park public house, with a view to bring forward a scheme to allow the site to be redeveloped with new retail facilities and housing.

RESOLVED - (a) That the proposed land assembly exercise at Scargill Court, as outlined in the submitted report, be agreed.

(b) That the Director of Development and Environment be authorised to progress the proposal and report back to Cabinet for detailed consideration and approval of terms in due course.

REASONS - (a) To facilitate re-development of the land.

(b) To achieve the development of appropriate new housing in this location.

**DECISIONS DATED -
FRIDAY, 16TH FEBRUARY, 2007**