

**DECISIONS SHOULD NOT BE IMPLEMENTED
BEFORE MONDAY, 19TH OCTOBER, 2009**

CABINET
6th October, 2009

PRESENT – Councillor Williams (in the Chair); Councillors Chapman, Copeland, Dixon, Harker, McEwan, D.A. Lyonette, A.J. Scott and Wallis. (9)

ALSO IN ATTENDANCE – Councillors Barker, Davies and Haszeldine. (3)

NOTE. PEDESTRIAN HEART – The Leader informed Cabinet that the report on the Pedestrian Heart, scheduled to be considered in the confidential part of the meeting, would be considered in the non-confidential part of the meeting in conjunction with the report already included on the agenda (Minute C61 below refers).

C52. DECLARATIONS OF INTEREST – There were no declarations of interest reported at the meeting.

C53. REPRESENTATIONS – In respect of Minutes C58 and C61 below, representations were made by both Members and members of the public, in attendance at the meeting.

C54. MINUTES - Submitted - The Minutes (previously circulated) of the meeting of this Cabinet held on 8th September, 2009.

RESOLVED - That the Minutes be confirmed as a correct record.

REASON – They represent an accurate record of the meeting.

C55. MATTERS REFERRED TO CABINET - There were no matters referred back for reconsideration.

C56. ISSUES ARISING FROM SCRUTINY – There were no issues arising from Scrutiny.

C57. PETITION TO CABINET – The Leader introduced the report of the Director of Community Services and the Assistant Chief Executive (Regeneration) (previously circulated) presenting to Cabinet a petition, in relation to the proposal by Cambian Healthcare, to provide a hospital to care for people with mental health needs at Victoria House, Darlington.

Members of the public in attendance at the meeting raised concerns in respect of the change of use of Victoria House from a care home to a hospital for people with mental health needs; the Council's position in relation to that change of use; and the consultation that was undertaken.

The Leader, Members and Officers in attendance at the meeting, responded thereon and outlined the Council's legal position in relation to the facility.

RESOLVED – That the petition and the views expressed by representatives from the Albert Hill area, and the legal positions in relation to planning and registration, as detailed in the submitted report, be noted.

REASON – To ensure that the views of residents are considered by Members.

C58. KEY DECISIONS - (1) Sex and Relationship Education Policy – The Cabinet Member with Children and Young People Portfolio introduced the report of the Director of Children’s Services (previously circulated) requesting that consideration be given to the Sex and Relationship Education Policy (also previously circulated).

RESOLVED – That the Sex and Relationship Education Policy, as appended in the submitted report, be adopted.

REASONS– (a) The policy contributes to several of the national indicators, including:

- NI 112 – the under 18 conception rate;
- NI 113 – prevalence of chlamydia in those under 20 years old; and
- NI 150 – Emotional health of children.

(b) The policy also supports priorities within the Children and Young People’s Plan for Darlington, specifically under promoting positive health and well being with actions including:

- (i) reduce teenage pregnancy and promote positive sexual health; and
- (ii) promote positive mental health and emotional well-being

(2) Kitchen Funding and the Release of Capital – The Cabinet Member with the Children and Young People Portfolio introduced the report of the Director of Children’s Services (previously circulated) requesting that consideration be given to the release of capital funds, in relation to the grant received from the Department for Children, Schools and Families, for the refurbishment and improvement of kitchen and dining facilities in twelve Darlington primary schools amounting to £378,598.

RESOLVED – (a) That the report be noted.

(b) That £378,598 of Department for Children, Schools and Families grant, be released, to the twelve schools as detailed in the submitted report, for the refurbishment and improvement of kitchen and dining facilities.

REASON – The grant is designated for one purpose only and is consistent with the Children’s Plan and departmental objectives.

(3) Cycling Demonstration Town Programme 2009/10 – Revisions – The Cabinet Member with the Transport Portfolio introduced the report of the Assistant Chief Executive (Regeneration) (previously circulated) requesting that consideration be given to a variation of the previously agreed programme for the Second Local Transport Plan (2LTP) cycling schemes and Darlington Cycle Demonstration Town Project, in order to address emerging priorities that have arisen since Cabinet approval for the 2009/10 Programme, made on 1st of March 2009.

Discussion ensued on a number of the schemes contained within the programme.

RESOLVED – (a) That the changes to the Second Local Transport Plan programme for 2009/10, as set out in paragraph 13 of the submitted report, be approved.

(b) That the changes to the Cycle Demonstration Town programme for 2009/10, as set out in paragraph 13 of the submitted report, be approved.

(c) That should circumstances permit, the John Street scheme be brought forward in the programme.

REASON - To ensure that the most effective use of Second Local Transport Plan and Cycle Demonstration Town capital funding is made in 2009/10, thus maximising external grant funding from Cycling England.

(4) Land for Replacement Playing Fields – The Cabinet Member with the Efficiency and Resources Portfolio introduced the report of the Assistant Chief Executive (Regeneration) and the Director of Corporate Services (previously circulated) requesting that consideration be given to the use of Council land, as shown on the plan appended to the submitted report, for the relocation of Darlington College’s playing pitches.

RESOLVED – (a) That the use of Council owned land at Blackwell Meadows, as shown on the plan appended to the submitted report, and/or north of Darlington Football club, for the development of new playing pitches/fields and any necessary ancillary facilities, be agreed, in principle.

(b) That Officers be authorised to commence negotiations with relevant parties to agree the relocation of the Darlington College playing fields to land at Blackwell Meadows and/or north of Darlington Football club, at no financial cost to the Council.

(c) That the Director of Corporate Services, in consultation with the Cabinet Member with the Efficiency and Resources Portfolio, be authorised to progress negotiations, serve appropriate notices, agree compensation and complete all necessary documentation.

(d) That Officers continue to explore the relocation of playing fields (1.86 ha) lost to the St Aidan’s Academy development.

REASONS – (a) The securing of the University development is an important step in achieving wider educational skills, prosperity and market positioning for Darlington, in line with the two priorities, and Prosperous and Aspiring themes, in One Darlington: Perfectly Placed.

(b) An outstanding condition on the planning permission for St. Aidan’s Academy, requiring the replacement of lost playing pitches, needs to be satisfied.

C59. OUTCOME OF COMPLAINTS MADE TO OMBUDSMAN - REVIEW - Pursuant to Minute C25/Jul/09, 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 meeting of Cabinet held on 7th July, 2009.

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.

C60. PEDESTRIAN HEART – The Leader introduced the reports of the Director of Community Services (previously circulated) requesting that consideration be given to whether this Council should commence any form of action for recovery of payments made to contractors, in relation to the Pedestrian Heart Project.

Particular reference was made to the reviews undertaken by the Resources Scrutiny Committee in relation to the project and the changes implemented as a result of those reviews.

Discussion ensued on the issues around the management of the contract; the lessons learnt; the changes implemented; and the potential cost to the Council of pursuing further action.

RESOLVED – (a) That the report from E.C. Harris (forensic engineers) and Ward Hadaway Solicitors, as appended to the submitted report, in relation to the Pedestrian Heart contracts, be accepted.

(b) That the Resources Scrutiny Committee be requested to examine whether the officers advice not to take further action at this time unless further evidence comes to light is sound.

REASONS – To enable the Resources Scrutiny Committee to investigate this matter further.

C61. DEVELOPMENT OF THE THIRD LOCAL TRANSPORT PLAN – The Cabinet Member with the Transport Portfolio introduced the report of the Assistant Chief Executive (Regeneration) (previously circulated) outlining Government guidance on the development of the next Local Transport Plan for Darlington; proposing a partnership approach with the other Tees Valley local transport authorities; and outlining a consultation process to support the first phase of the work.

RESOLVED – (a) That the Local Transport Plan be prepared in accordance with Government guidance that seeks to deliver the goals and challenges outlined in 'Delivering a Sustainable Transport System', as appended to the submitted report.

(b) That officers work with the Tees Valley Joint Strategy Unit and neighbouring authorities to develop a City Region Transport Strategy for inclusion in the Plan.

(c) That consultation be carried out on setting the local priorities for Darlington's Transport Strategy and on setting the priorities for the sub-region through the City Region Transport Strategy.

REASONS – (a) To meet the Council's statutory duty to prepare a Local Transport Plan, following Government guidance.

(b) To support and inform the City Region vision and the RFA investment programme.

(c) To engage local people in setting priorities.

C62. DELEGATED POWERS – SECTION 108, ENVIRONMENT ACT 1995 – The Cabinet Member with the Neighbourhood Services and Community Safety Portfolio introduced the report of the Director of Community Services (previously circulated) requesting that consideration be given to a change to the scheme of delegation with regard to powers contained in the Environment Act 1995.

RESOLVED – (a) That the following wording be added to Paragraph 1(a), Section H to the powers of the Director of Corporate Services:

‘With the exception of powers under the Environmental Protection Act 1990 for Section 46 Household Waste Receptacles, Section 47 Commercial Waste Receptacles Non Food, Section 33 Fly Tipping, Section 34 Duty of Care Non Food’.

(b) That a new paragraph (2) be added to Section P of the Director of Community Services powers as follows:

‘Powers to require individuals to disclose information under Section 108 of the Environment Act specifically for waste related matters under the Environmental Protection Act 1990, Section 46 Household Waste Receptacles, Section 47 Commercial Waste Receptacles Non Food, Section 33 Fly Tipping, Section 34 Duty of Care Non Food’.

REASONS – To enable the Director of Community Services to delegate powers under Section 108 of the Environment Act to enable Street Scene Enforcement Officers to carry out their enforcement role more effectively.

C63. GROUNDWORK NORTH EAST – The Cabinet Member with the Health and Leisure Portfolio introduced the report of the Director of Community Services (previously circulated) requesting that consideration be given to this Council becoming a member of Groundwork North East.

RESOLVED – (a) That this Council becomes a member of Groundwork North East.

(b) That the Cabinet Member with the Health and Leisure Portfolio be nominated to serve on the Board of Groundwork North East.

(c) That the Cabinet Members with the Health and Leisure and the Communities and Engagement Portfolios be nominated to serve on the Sub-Regional Board of Groundwork North East.

REASON – To enable this Council to play an active part in the development and leadership of Groundwork North East.

C64. FUTURE JOBS FUND – The Cabinet Member with the Economy Portfolio introduced the report of the Assistant Chief Executive (Regeneration) (previously circulated) requesting that consideration be given to the release of £370,500 Future Jobs Fund funding for 2009/10 and 2010/11.

RESOLVED – That Future Jobs Fund funding of £370,500, be released, to assist the medium term unemployed residents of Darlington to access a job placement opportunity with training, to assist them in obtaining long-term sustained employment.

REASONS – (a) To enhance the environmental, social and economic well-being of the Borough.

(b) To support medium-term unemployed in Darlington reach their full potential and increase their chances of entering sustainable employment.

(c) This project is unique to Darlington in comparison to the other four local authorities within Tees Valley, as Darlington Borough Council does not receive funds such as LEGI (Local Enterprise Growth Initiative) and WNF (Working Neighbourhoods Fund).

C65. TEES VALLEY REGENERATION SUCCESSION ARRANGEMENTS – The Cabinet Member with the Economy Portfolio introduced the report of the Assistant Chief Executive (Regeneration) (previously circulated) informing Members that Tees Valley Regeneration would be wound up as a company by the end of March 2010 and seeking agreement to renew arrangements for taking forward the work currently undertaken by Tees Valley Regeneration and for the costs involved.

Discussion ensued on the involvement of Redcar and Cleveland Borough Council in Tees Valley Unlimited.

RESOLVED – (a) That the arrangements for winding up Tees Valley Regeneration and for successor arrangements for its functions, as set out in the submitted report, be agreed.

(b) That funding for the arrangements, as approved at (a) above and as set out in the submitted report, be agreed, as maximum annual funding for the three years 2010/11 to 2012/13.

REASONS – (a) To create more effective arrangements for driving forward the delivery of complex physical regeneration projects and business investment in the Tees Valley, to boost the sustainable development of the City Region in line with the Tees Valley Multi-Area Agreement and with the five Sustainable Community Strategies.

(b) To reflect the new arrangements previously agreed for Tees Valley Unlimited.

(c) To create efficiencies, greater clarity and improved accountability by bringing functions together under Tees Valley Unlimited.

C66. MEMBERSHIP CHANGES – RESOLVED – That Councillor Richmond be nominated to be the Tees Valley representative on the European Chemical Regions Network for the remainder of the 2009/10 Municipal Year.

C67. 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 paragraph 3 of Part I of Schedule 12A of the Act.

C68. EAST ROW (EXCLUSION PARAGRAPH NO. 3) – The Cabinet Member with the Efficiency and Resources Portfolio introduced the report of the Director of Corporate Services (previously circulated) requesting that consideration be given to the current trading conditions of a business in East Row.

RESOLVED – (a) That Option (b) as detailed in the submitted report, be accepted.

(b) That the Director of Corporate Services be authorised to conclude negotiations for a new lease commencing from May 2008, in consultation with the relevant Cabinet Member.

(c) That the Borough Solicitor be authorised to complete the appropriate documentation accordingly.

REASONS – (a) To avoid having an empty shop unit and no rental income.

(b) To support the Independent Retail Strategy devised by the Town Centre Board.

(c) It provides the best achievable commercial outcome for the Council.

C69. SCHEDULE OF TRANSACTIONS (EXCLUSION PARAGRAPH NO. 3) – The Cabinet Member with the Efficiency and Resources Portfolio introduced the report and schedule of the Director of Corporate Services (both previously circulated) requesting that consideration be given to the Schedule of Transactions and seeking approval of 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 Cabinet before binding itself contractually to a transaction.

**DECISIONS DATED -
FRIDAY, 9TH OCTOBER, 2009**