

**DECISIONS SHOULD NOT BE IMPLEMENTED BEFORE
MONDAY 18 MARCH 2013**

CABINET
5 March 2013

PRESENT - Councillor Dixon (in the Chair); Councillors Copeland, Harker, C L B Hughes, D A Lyonette, McEwan, A J Scott and Wallis. (8)

INVITEES – Councillors Curry and Mrs H Scott. (2)

ALSO IN ATTENDANCE – Councillors Coultas, Francis, Johnson, Mrs Jones, E A Richmond and York. (6)

C125. DECLARATIONS OF INTEREST – In respect of Minute C130(1) below, Councillor D A Lyonette declared a non-pecuniary interest, as he had a relative attending one of the schools detailed in the plan.

C126. REPRESENTATIONS – In respect of Minute C130(2) below, representation was made by a Member in attendance at the meeting.

C127. MINUTES - Submitted - The Minutes (previously circulated) of the meetings of this Cabinet held on 5 and 19 February 2013.

RESOLVED - That the Minutes be confirmed.

REASON - They represent an accurate record of the meeting.

C128. MATTERS REFERRED TO CABINET - There were no matters referred back for reconsideration.

C129. ISSUES ARISING FROM SCRUTINY - There were no issues arising from Scrutiny.

C130. KEY DECISIONS - (1) 2014/15 School Admission Arrangements - The Cabinet Member with the Children and Young People Portfolio introduced the report of the Director of People (previously circulated) requesting that consideration be given to this Council's Admission Policy for the 2014/15 academic year and the co-ordinated arrangements for all schools in the Borough. The co-ordinated Admission Schemes for both primary and secondary applications were appended to the submitted report.

RESOLVED - That the changes required to the Local Authority's Co-ordinated Admission Schemes for both primary and secondary applications for the 2014/15 academic year, and as detailed in the appendices to the submitted report, be approved.

REASON - (a) The Authority is under a statutory duty to consult and adopt an admission scheme for both Primary and Secondary school places for the academic year 2014/15.

(b) If the scheme is not approved and returned to the Department for Education by 15 April 2013 the Secretary of State may impose a scheme on the Authority.

(2) School Organisation Plan - The Cabinet Member with the Children and Young People Portfolio introduced the report of the Director of People (previously circulated) requesting that consideration be given to the School Organisation Plan 2013/17 (also previously circulated) and to the release of Basic Need capital funding to support the expansion of school places.

A Member in attendance at the meeting addressed Cabinet in respect of the Plan and sought confirmation that every child in Middleton St George who wished to attend St George's Church of England Academy would be allocated a place without the need for appeal and that funding would be available for expansion of the school if required. The Director of Place responded thereon.

RESOLVED - (a) That the School Organisation Plan 2013/17, as appended to the submitted report, be approved.

(b) That £1,577,503 of 2012/13 Basic Need Capital funding be released to support the creation of additional primary school places across the Borough.

(c) That the Director of People be given delegated authority, to define the specific funding allocations to support each of the individual school expansion proposals included in the School Organisation Plan, as appended to the submitted report.

REASONS - (a) To meet the Local Authority's statutory duty to manage the supply of school places and ensure every child, living in the Borough, has access to quality education provision.

(b) To release capital funding to support the provision of additional places to meet an immediate need for increased capacity within the primary phase of education.

(c) To ensure funding is spent appropriately and best value is achieved in detailed work to identify costs and scope budgets.

(3) Domiciliary Care and Housing Related Support Contract - The Cabinet Member with the Adult Social Care and Housing Portfolio introduced the report of the Director of People (previously circulated) outlining the procurement process and requesting that consideration be given to the forthcoming competitive tender and contract awards for the Domiciliary Care and Housing Related Support for eligible adults within the People Group; and changes to the new contract.

RESOLVED - (a) That the re-tendering of Domiciliary Care and Housing Related Support services be approved, through an approved procurement process, as detailed in the submitted report, for the contract period 1 October 2013 to 30 September 2015 with an option to extend by up to a further two years.

(b) That the Framework Agreement for all adults, including domiciliary personal care and housing related support, be approved.

(c) That a contract ceiling rate of £11.25 per hour for the standard domiciliary care for all adults based on a 2 per cent increase on the current average rate of £11.03, be introduced.

(d) That a contract ceiling rate of £12.75 per hour for enhanced care to meet the needs of individuals with complex needs based on a set criteria, as detailed in the submitted report, be introduced.

(e) That a sleepover rate of £40 per night and a structured payment in accordance with assessed needs, be introduced.

REASONS - (a) This is an essential service; the current framework contract ends 30 September 2013, and cannot be extended. It needs to be brought in line with Personalisation and reflect developments over the past three years in respect of outcome based accountability.

(b) Combining the two existing Contracts will achieve a more equal, transparent, and consistent Framework Agreement. Furthermore it will provide a more robust Framework Agreement that will ensure 'Value for Money' and stimulate the market to deliver on the Personalisation agenda and to allow an opportunity for new providers to enter the local market.

(c) It will also ensure that inequalities within the current Domiciliary Care market are addressed through improving access to the service (consistency of service available in which service users will be able to choose from), providing opportunities for a more diverse workforce and provision of a more flexible and responsive service.

(d) A further benefit of having one Contract is that service users have seamless access to their current provider regardless of their age or disability.

(e) Introducing an enhanced rate acknowledges there are a number of people with complex needs living with a long term condition(s), who by virtue of their specific needs will require skilled support over and above what would be expected as part of a quality service. These needs within the new agreement will be met through an enhanced rate that will be linked to clear criteria for such support.

(4) Housing Investment Programme 2013/14 - The Cabinet Member with Adult Social Care and Housing Portfolio introduced the report of the Director of Place (previously circulated) outlining the resources available for housing capital investment during 2013/14 and recommending a programme to utilise those resources.

The Cabinet Member with the Adult Social Care and Housing Portfolio stated that the Programme had been considered and supported by the Tenants Board.

RESOLVED - That the annual Housing Investment Programme for 2013/14, as set out in Table 2 of the submitted report, be agreed and the funding to support that programme be released.

REASON - To enable the works and projects identified in the annual Housing Investment Programme for 2013/14 to proceed.

C131. PUBLIC HEALTH TRANSFER OF RESPONSIBILITIES - The Cabinet Member with the Health and Partnership Portfolio introduced the report of the Director of People and the Director of Resources (previously circulated) requesting that consideration be given to making the necessary changes to the Council's governance arrangements and Constitution to enable the Council to carry out its new responsibilities in relation to Public Health set out in the Health and Social Care Act 2012.

RESOLVED – That the Constitution be amended to reflect the changes to responsibilities as follows:-

- (i) the powers in relation to Public Health be delegated to the Director of People acting through the Director of Public Health;
- (ii) the Director of Public Health be added to the scheme of delegation with the same powers and duties as Assistant Directors in relation to the areas within their responsibility;
- (iii) the Director of Public Health be recognised as a proper officer function (one with specific responsibilities identified in statute as exercisable by a particular officer) in the list of Proper Officer functions within the Constitution;
- (iv) the Cabinet Portfolio for Health and Partnerships be amended to show the additional public health responsibilities as set out in the Health and Social Care Act 2012; and
- (v) the matter be referred to Council with a recommendation that the Scrutiny remit of the Health and Partnerships Scrutiny Committee be amended to show specific responsibility for scrutinising the executive in relation to the exercise of the new public health functions.

REASONS - (a) To enable the Council to fulfil its new public health duty.

(b) To ensure the Council's governance arrangements and Constitution are kept up to date.

C132. DEVELOPMENT OF APPROACH FOR BUDGET ADVISORY PANELS - The Cabinet Member with the Efficiency and Resources Portfolio introduced the report of the Chief Executive (previously circulated) requesting that consideration be given to an approach for the development of the Council's service delivery priorities and accompanying 2014/15 Medium Term Financial Plan (MTFP).

Discussion ensued on the membership of the Budget Advisory Panels and their remit.

RESOLVED - That the approach to determining the Council's service 'offer' and Medium Term Financial Plan for 2014/16, as detailed in the submitted report, be agreed.

REASONS - (a) There is a need to have a transparent process to draw up the next series of spending reductions.

(b) The scale of reductions require consideration of the Council's ability to meet its statutory obligations over the life of the next MTFP.

C133. CALENDAR OF COUNCIL AND COMMITTEE MEETINGS 2013/14 - The Leader introduced the report of the Director of Resources (previously circulated) requesting that consideration be given to the Calendar of Council and Committee Meetings for the 2013/14 Municipal Year.

Particular reference was made to the inclusion of meetings of the Shadow Health and Well Being Board in the Calendar of Council and Committee Meetings for 2013/14.

RESOLVED - That the Calendar of Council and Committee Meetings 2013/14, as appended to the submitted report, be approved, and the proposed dates for the meetings of Council be referred to the Annual Council meeting scheduled to be held on Thursday 16 May 2013, for approval.

REASONS - To ensure that the calendar of meetings is approved for the forthcoming municipal year.

C134. HOUSING COMPLAINTS REFORMS (THE LOCALISM ACT 2011) - The Cabinet Member with the Efficiency and Resources Portfolio introduced the report of the Director of Resources (previously circulated) requesting that consideration be given to the introduction of a Housing Complaints, Compliments and Comments Procedure (also previously circulated) from 1 April 2013.

RESOLVED – That Housing Complaints, Compliments and Comments Procedure, as appended to the submitted report, be approved.

REASON - The introduction of the Housing Complaints, Compliments and Comments Procedure will ensure the Council is able to comply with the requirements of the Act when considering complaints about our actions as a social landlord (as well as in respect of our ownership and management of leasehold housing).

C135. ASSETS OF COMMUNITY VALUE - The Cabinet Member with Economy and Regeneration Portfolio introduced the report of the Director of Place (previously circulated) requesting that consideration be given to arrangements to implement new duties under the Localism Act 2011, relating to assets of community value.

RESOLVED - (a) That the Assistant Director – Policy and Regeneration be given delegated powers to deal with all aspects of statutory function relating to assets of community value.

(b) That without limiting the ability of the Assistant Director to determine how to discharge the function, the suggestion of Cabinet is that:

- (i) powers be sub delegated to the Head of Regulatory Services to maintain the list of assets of community value, the list of unsuccessful nominations and to receive, process and make decisions about the listing of assets and claims for compensation that arise; and

(ii) requests for reviews of any decisions about the listing of an asset or for compensation will be heard by the Assistant Director – Policy and Regeneration.

(c) That a period of five years be adopted as the time period after which listed assets of community value and failed community nominations should be removed from the lists.

(d) That where nominations for assets to be included as being of community value rely on a use in the recent past, this be regarded as a period of no more than five years preceding the date of nomination.

(e) That the Council's Scheme of Delegation to officers be amended, to include a new legal exception as follows:

(i) To carry out powers in relation to Assets of Community Value under part 5 Chapter 3 Localism Act 2011.

(ii) Under the heading Officer.

Powers to determine whether an asset should be placed on the list - Head of Service. Powers to determine reviews - Assistant Director Policy and Regeneration.

REASONS - To enable the Council to meet its duties under the Localism Act 2011 with respect to Assets of Community Value.

C136. NEIGHBOURHOOD PLANNING - The Cabinet Member with the Economy and Regeneration Portfolio introduced the report of the Director of Place (previously circulated) informing Members about the general principles of neighbourhood planning under the Localism Act; explaining the role and legal obligations on the Council; and requesting that consideration be given to giving delegated powers to officers to allow the new arrangements to be administered.

The submitted report stated that the first Neighbourhood Planning Area designation application had been received by the Council.

RESOLVED - (a) That the following decisions in the Neighbourhood Planning process, as defined in the Neighbourhood Planning (General) Regulations 2012, be delegated to the Assistant Director for Policy and Regeneration:-

(i) whether a body is a designated neighbourhood forum;

(ii) whether to accept and designate a Neighbourhood Area;

(iii) whether an application for a neighbourhood development plan or order is valid and should be accepted;

(iv) whether to decline or accept a repeat proposal for a neighbourhood development plan or order;

- (v) the appointment of an examiner for a Neighbourhood Development Plan or Order; and
- (vi) whether to make a neighbourhood development plan or order following a referendum; and

the following decisions be made by Cabinet:

- (vii) decisions as to what actions to take in response to an examiner's report;
- (viii) whether to modify neighbourhood development plans or orders; and
- (ix) adoption of the Neighbourhood Plan.

(b) That the Council's Constitution be amended, to include in the permissions at 10(c) a new sentence, 'Power to process and determine all decisions relating to neighbourhood planning under the Localism Act 2011.' and the Scheme of Delegation to include a new delegation under the Corporate Director – Place to the Assistant Director – Policy and Regeneration with the responsibility for 'all aspects of the statutory function relating to Neighbourhood Planning'.

REASONS - (a) To enable the Council to meet its duties under the Localism Act 2011, and Neighbourhood Planning (General) Regulations 2012 with respect to Neighbourhood Planning.

(b) To cover all of the procedural steps which are required to allow the neighbourhood plan/order to progress to adoption by the Council.

C137. MEMBERSHIP CHANGES - There were no membership changes reported at the meeting.

C138. 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 to the Act.

C139. KEY DECISION - CENTRAL PARK – WAY FORWARD (EXCLUSION PARAGRAPH NO 3) - The Cabinet Member with Efficiency and Resources Portfolio introduced the report of the Director of Place and the Director of Resources (previously circulated) providing Members with an update of the position in respect of Central Park following the Cabinet resolution in May 2012 (Minute C158(12)/May/12 refers) and requesting that consideration be given to the approvals necessary to secure the best outcome for Central Park.

RESOLVED - (a) That the negotiated termination of the Development Agreement with CKY, be agreed:-

- (i) at no compensation to Yuills;
- (ii) at no compensation to Keepmoat and subject to a S106 agreement (for the provision of multifunctional open space, its management and maintenance

- including public art to the value of £30,000, local employment and training provisions and implementation of the travel plan); and
- (iii) with compensation in respect of some costs associated with the commercial development at the cost as set out in paragraph 33(a), of the submitted report, to the public partners.

(b) That a land deal with Keepmoat for Central Park North – Residential - in line with the Heads of Terms, as set out in Annex 1 and as detailed in the submitted report, be agreed.

(c) That a revised Joint Venture be entered into with the Homes and Community Agency for Central Park, as set out in the Heads of Terms as appended to the submitted report at Annex 2.

(d) That the Director of Resources be given delegated authority, in consultation with the Director of Place, for the negotiation and completion of the agreements, as identified in recommendations 6(a) to 6(c) above.

(d) That the Director of Resources be given delegated authority in consultation with Director of Place, to negotiate the disposal of the depot office site to assist in the delivery of Central Park, as shown in Annex 3 of the submitted report.

(e) That it be recommended to Council that:-

- (i) capital funding of £4.6m be agreed for the relocation of the Council Depot to be funded initially by prudential borrowing and Growing Places Funding, as set out in paragraph 77 of the submitted report; and
- (ii) the estimated revenue financial consequences of the scheme be approved, as set out in paragraph 77 of the submitted report, noting the range of costs is dependent on varying factors in the future.

REASONS - (a) Having considered and balanced the associated risks, which are detailed in the submitted report, it is considered that a negotiated termination or dissolution of the existing Development Agreement is the most appropriate way forward for both the Council and the Homes and Communities Agency (HCA) to secure the delivery of the Central Park development.

(b) To enable the early commencement of Central Park in the interests of helping the local economy, maintaining the Borough's five-year housing land supply; securing the New Homes Bonus and additional Council Tax from the early delivery of the residential units and to ensure that the land for the proposed Business Growth Hub is in the control of the Council for the purposes of ERDF (EU Regional Development Fund) application and consideration.

(c) The site continues to be fettered by the Joint Venture which is now outdated given the transfer of assets from One North East (ONE) to HCA and the changes to the proposed delivery mechanism for Central Park. To ensure that the public sector partners continue to work together to deliver the refreshed scheme, through the revised delivery mechanism and to ensure that the scheme and any land receipt is appropriately governed, it is necessary to enter into a revised Joint Venture.

(d) The principles for the necessary agreements are set out in the submitted report and its attachments but the detail still needs to be negotiated before the agreements can be completed. To ensure that there is no significant delay to the delivery of Central Park, it is considered appropriate to seek delegated authority to negotiate and complete the agreements.

(e) To enable the Council to commence negotiations for the disposal of land within the Central Park boundary identified as being surplus to requirements in order to (a) reduce site maintenance and security costs associated with this property remaining vacant and (b) to contribute towards the delivery of Central Park.

(f) The revised delivery mechanism has less certainty in respect of the delivery of Central Park South than the previous delivery mechanism, exposing the Council to increased financial implications. Given the nature of these financial implications, the constitution requires a Council resolution.

C140. NORTH CEMETERY HOUSE AND CHAPELS, OFF NORTH ROAD, DARLINGTON (EXCLUSION PARAGRAPH NO 3) - The Cabinet Member with the Efficiency and Resources Portfolio introduced the report of the Director of Place and the Director of Resources (previously circulated) requesting that consideration be given to North Cemetery House and the Chapels off North Road, Darlington, being declared surplus to requirements and seeking authority to dispose of them by such method as is considered appropriate.

RESOLVED - (a) That North Cemetery House and Chapels, North Road, Darlington, be declared surplus to the Council's requirements.

(b) That the Director of Resources be authorised to dispose of the properties in line with the conclusion at paragraph 24 of the submitted report and if a disposal by auction is selected as the most appropriate method, the setting of the reserve price be delegated to the Director of Resources in consultation with the Portfolio holder.

(c) That the Assistant Director Resources be authorised to complete the appropriate documentation.

REASONS - (a) To remove from the Council potential maintenance and security liabilities.

(b) To achieve a capital receipt the income from which will have to be re-invested in the maintenance of the cemetery.

**DECISIONS DATED
FRIDAY 8 MARCH 2013**