

**DECISIONS SHOULD NOT BE IMPLEMENTED BEFORE  
MONDAY 18 FEBRUARY 2019**

**CABINET**

Tuesday, 5 February 2019

**PRESENT** – Councillors Harker (Chair), Crumbie, C L B Hughes, McEwan, S Richmond, A J Scott and Wallis

**INVITEES** – Councillors Coultas, Curry, Haszeldine and Mrs H Scott

**APOLOGIES** – Councillor Nicholson

**ALSO IN ATTENDANCE** – Councillor Knowles

**C103 DECLARATIONS OF INTEREST.**

In respect of Minute C115 below, Councillor Harker declared a non-pecuniary interest as he was Cabinet Member on Tees Valley Combined Authority and Councillor McEwan declared a non-pecuniary interest as he was Member of Durham Tees Valley Airport Board.

**C104 TO HEAR RELEVANT REPRESENTATION (FROM MEMBERS AND THE GENERAL PUBLIC) ON ITEMS ON THIS CABINET AGENDA.**

In respect of Minutes C107 and C111 below, representations were made by a Member and a member of the public in attendance at the meeting.

**C105 TO APPROVE THE MINUTES OF THE MEETING OF THIS CABINET HELD ON 8 JANUARY 2019**

Submitted - The Minutes (previously circulated) of the meeting of this Cabinet held on 8 January 2019.

**RESOLVED** – That the Minutes be confirmed as a correct record.

**REASON** – They represent an accurate record of the meeting.

**C106 MATTERS REFERRED TO CABINET**

There were no matters referred back for re-consideration to this meeting.

**C107 ISSUES ARISING FROM SCRUTINY COMMITTEE - AUTISM REVIEW GROUP - FINAL REPORT**

The Chair of the Autism Review Group submitted a report (previously circulated) presenting the outcomes and findings of the Review Group established by the Adults and Housing Scrutiny Committee, to look at the support and advice services available

in Darlington for adults with autism, and requesting that consideration be given to the recommendations contained within the final report.

In presenting the report to Cabinet, the Chair of the Review Group stated that the work of the Review Group had focussed on the employment and employability of those people living with autism and that overall the Review Group were relatively satisfied with the support services available in Darlington for people with autism.

Discussion ensued on the work undertaken by the Review Group; the diagnosis of people with autism; and the availability of respite facilities for families living with an adult with autism.

**RESOLVED** – That the recommendations of the Review Group, as contained within the final report, as appended to the submitted report, be endorsed.

**REASON** – To ensure that all partners work together to support and improve services for people living with autism.

## **C108 KEY DECISIONS:-**

### **(1) PRIVATE SECTOR ENVIRONMENTAL CRIME ENFORCEMENT - UPDATE**

Pursuant to Minute C128(20/Mar/18), the Cabinet Member with the Leisure and Local Environment Portfolio introduced the report of the Director of Economic Growth and Neighbourhood Services (previously circulated), providing Cabinet with an update on the pilot entered into with Kingdom Services Group with regard to enforcement services for litter and dog fouling offences.

The submitted report stated that the Council had been running a pilot with Kingdom Service Group for the enforcement of litter and dog fouling offences; officers' experience of working with the Kingdom Service Group had been poor; due to changes in senior management Council staff had had to support Kingdom Service Group staff on a regular basis; and that the Council had recently established a Civic Enforcement Team, which had responsibility for environmental enforcement, including litter and dog fouling.

References were made to the number of fixed penalty notices (FPN's) issued during the first three months of the contract; the number of appeals received against those FPN's; feedback received from residents and town centre traders in respect of the pilot; and the options available following the completion of the pilot at the end of March 2019.

Discussion ensued on the difficulty of enforcing littering and dog fouling; the importance of education in tackling litter and dog fouling; and the need to continue enforcement of littering and dog fouling to improve the environment of the town.

**RESOLVED** – That notice be issued to Kingdom Service Group, to terminate the contract for litter and dog fouling enforcement, at the end of the pilot period on 31 March 2019.

**REASONS** – (a) The poor experience and service provided by Kingdom Service

Group to date, as well as the feedback from residents and traders.

(b) To end private sector enforcement for litter and dog fouling across the Borough, allowing time for Kingdom Service Group to wind down the contract.

## **(2) SCHOOLS ADMISSIONS 2020/21**

The Cabinet Member with the Children and Young People Portfolio introduced the report of the Director of Children and Adults Services (previously circulated) requesting that consideration be given to the Local Authority's Admission Arrangements (also previously circulated) for the 2020/21 Academic Year, for maintained schools in the Borough.

The submitted report stated that, in line with the Schools Admission Code, an Admission Authority was required annually to determine the admission arrangements used to allocate places for schools for which it was the admission authority; once approved, there was a statutory duty on the Local Authority to forward a Co-ordinated Admission scheme for both primary and secondary schools to the Secretary of State by 28 February 2019; and that the oversubscription criteria had been amended to include children who had been previously in state care.

**RESOLVED** – (a) That the Local Authority's admission arrangements for community and voluntary controlled schools, as appended to the submitted report, be approved.

(b) That the Co-ordinated Admission Schemes for both primary and secondary applications for the 2020/21 academic year, as appended to the submitted report, be adopted.

**REASON** – (a) The Authority is under a statutory duty to determine admission arrangements for primary schools for which it is the admission authority for the academic year 2020/21.

(b) If the co-ordinated scheme is not adopted and returned to the Department for Education by the 28 February 2019 the Secretary of State may impose a scheme on the Authority.

## **(3) PUBLIC SPACES PROTECTION ORDER DARLINGTON TOWN CENTRE**

Pursuant to Minute C29/Jul/18, the Cabinet Member with the Community Safety Portfolio introduced the report of the Director of Economic Growth and Neighbourhood Services updating Members on the responses received to the consultation undertaken on the introduction of a Public Space Protection Order (PSPO) in Darlington Town Centre and requesting that consideration be given to formally making the Public Spaces Protection Order (PSPO).

The submitted report stated that the PSPO aimed to address certain types of anti-social behaviour in the town centre which had a detrimental impact on the public and businesses; the range of anti-social behaviour included alcohol related incidents, youth nuisance and begging; the Council had worked closely with partners and the Youth Offending Team to tackle anti-social behaviour; officers would only utilise the powers of a PSPO when necessary; outlined the benefits of a PSPO; the responses

received to the consultation, which were generally supportive of the Order; the legal, financial and equality implications of its introduction; and stated that the Council had worked with partners in developing a begging strategy to deal with begging entitled 'Begging in Darlington – A Multi-agency Strategic Approach' (also previously circulated).

The Chair, More in Common Darlington, addressed Cabinet in respect of the groups concerns, regarding the introduction of the PSPO; its perceived negative impact on the vulnerable people that may be affected by its introduction, including those people who may be either begging or sleeping rough in Darlington; its enforcement; and the area covered by the PSPO. The Cabinet Member with the Community Protection Portfolio responded thereon and in doing so stated that the PSPO was aimed at those people begging for financial gain; making the Town Centre a safer place; and stated that it would be implemented in a proportionate manner and should anyone be identified as vulnerable they would be dealt with in a sensitive manner.

Discussion ensued on the issue of begging within the Town Centre; homelessness; and the use of the powers contained within the PSPO.

In reaching its decision Members considered the Equality Impact Assessment (also previously circulated).

**RESOLVED** – (a) That the feedback received following the consultation undertaken on the introduction of the Public Spaces Protection Order - Darlington Town Centre, as detailed at Appendix 5 to the submitted report, be noted.

(b) That the Public Spaces Protection Order – Darlington Town Centre, as detailed at Appendix 2 to the submitted report, be approved and formally made.

**REASONS** – (a) To enable officers, including Police, PCSO's and Civic Enforcement Officers to effectively deal with various types of anti-social behaviour with an extended range of powers.

(b) To improve the quality of life of persons visiting and working in the area covered by the PSPO.

## **C109 REGULATION OF INVESTIGATORY POWERS**

The Cabinet Member with the Efficiency and Resources Portfolio introduced the report of the Managing Director (previously circulated) updating Members on issues relevant to the use of the Regulation of Investigatory Powers Act (RIPA) 2000; developments that have taken place since the last report to Cabinet in July 2018 (Minute C34/Jul/18 refers); and requesting that consideration be given to approving a revised RIPA Policy (also previously circulated), taking into account recent developments.

The submitted report stated that the RIPA Policy had been amended to account of revised Home Office Codes of Practice dealing with RIPA; legislative changes affecting authorisations for juveniles used as Covert Human Intelligence Sources (CHIS); and to reflect the change of the strategic regulator for RIPA.

**RESOLVED** – (a) That the developments that have taken place since July 2018, as detailed in the submitted report, be noted.

(b) That the RIPA Policy, as appended to the submitted report, be approved.

(c) That further reports on the use of RIPA and associated issues, be submitted to further meetings of Cabinet.

**REASONS** – (a) In order to ensure that the Council complies with the legal obligations under RIPA and national guidance.

(b) To ensure that the RIPA policy and procedures remain up to date and reflect legislative change and revised Codes of Practice.

(c) To help in giving transparency about the use of RIPA in this Council.

#### **C110 CALENDAR OF COUNCIL AND COMMITTEE MEETINGS 2019/20**

The Leader introduced the report of the Managing Director (previously circulated) requesting that consideration be given to the Calendar of Council and Committee Meetings for the 2019/20 Municipal Year (also previously circulated).

In presenting the report the Leader reported that a revised calendar had been revised and circulated at the meeting to include meetings of the Health and Well Being Board for the 2019/20 Municipal Year and a change to one of the Audit Committee dates.

**RESOLVED** – That the amended Calendar of Council and Committee Meetings 2019/20, as circulated at the meeting, be approved, and the proposed dates for the meetings of Council be referred to the Annual Council meeting scheduled to be held on Thursday 23 May 2019, for approval.

**REASON** – To ensure that the calendar of meetings is approved for the forthcoming municipal year.

#### **C111 PROJECT POSITION STATEMENT AND CAPITAL PROGRAMME MONITORING - QUARTER 3 2018/19**

The Leader and the Cabinet Member with the Efficiency and Resources Portfolio introduced the report of the Managing Director and Director of Economic Growth and Neighbourhood Services (previously circulated) providing a summary of the latest Capital resource and commitment position, to inform monitoring of the affordability and funding of the Council's capital programme; an update on the current status of all construction projects currently being undertaken by the Council; and requesting that consideration be given to a number of changes to the programme.

The submitted report stated that the projected outturn of the Capital Programme was £186.368m against an approved programme of £186.385m; the investment was delivering a wide range of improvements to the Council's assets and services; the programme remained affordable within the Medium Term Financial Plan (MTFP) for 2018/19 to 2021/22; there were 29 live projects currently being managed by the Council with an overall value of £69.819m; the majority of those projects were running

to time, cost and quality expectations with no foreseeable issues; and that the projects were managed either by the Council's in-house management team, a Framework Partner or by Consultants sourced via an open/OJEU tender process.

**RESOLVED** – (a) That the status position on construction projects, as detailed in the submitted report, be noted.

(b) That the projected capital expenditure and resources, as detailed in the submitted report, be noted.

(c) That the adjustments to resources, as detailed in paragraph 19 of the submitted report, be noted.

**REASONS** – (a) To inform Cabinet of the current status of construction projects.

(b) To make Cabinet aware of the latest financial position of the Council.

(c) To maintain effective management of resources.

### **C112 REVENUE BUDGET MONITORING 2018/19 - QUARTER 3**

The Cabinet Member with the Efficiency and Resources Portfolio introduced the report of the Managing Director (previously circulated) providing an up-to-date forecast of the 2018/19 revenue budget outturn as part of the Council's continuous financial management process.

The submitted report stated that the latest projections showed an overall improvement against the Medium Term Financial Plan (MTFP) of £2.689m, an increase of £1.573m from the position reported at Quarter 2; Adult Services had reported an improvement of £1.193m; Corporately Managed Resources showed a £0.653m positive movement; and that the projected balances at 31 March 2019 showed an increase to £18.179m which would be reflected in the revised MTFP to Cabinet and Council in February.

**RESOLVED** – (a) That the forecast revenue outturn for 2018/19, as detailed in the submitted report, be noted.

(b) That the proposed carry forward of resources referred to in paragraphs 14 to 19 of the submitted report, be noted and approved.

(c) That further regular reports be made to monitor progress and take prompt action if necessary.

**REASONS** – (a) To continue effective management of resources.

(b) To continue to deliver services to agreed levels.

### **C113 MEMBERSHIP CHANGES - TO CONSIDER ANY MEMBERSHIP CHANGES TO OTHER BODIES TO WHICH CABINET APPOINTS.**

There were no membership changes reported at the meeting.

## **C114 DURHAM TEES VALLEY AIRPORT**

(URGENT ITEM) With the prior approval of the Leader to the matter being treated as urgent to enable a decision to be made at the earliest possible date, the Cabinet Member with the Efficiency and Resources Portfolio introduced the report of the Managing Director (previously circulated) requesting that consideration be given to waiving the pre-emption rights the Council has, as a shareholder in Durham Tees Valley Airport Limited, in order to facilitate the transfer of shared controlled by Peel Holdings Limited to a company established by the Tees Valley Combined Authority (TVCA), and to consider maintaining its existing minority shareholder protections under the current shareholders agreement, with some minor modifications and clarifications.

The submitted report stated that on 24 January 2019 the TVCA had agreed to acquire the shareholding of Peel Holdings Limited in Durham Tees Valley Airport Limited; Peel Holdings Limited had the majority shareholding (89.09 per cent) in the Airport; the Council and the other minority shareholders, namely the four other Tees Valley Councils and Durham County Council, had pre-emption rights to buy any shares being disposed of by Peel Holdings Limited before they were offered for sale to another person or entity; none of the minority shareholders intended to exercise their pre-emption rights but they were supportive of the proposals; and that the minority shareholders had to give a waiver to indicate that they did not intend to exercise their pre-emption rights.

**RESOLVED** – (a) That consent be given to waive the Council’s rights of first refusal (pre-emption rights) relating to the proposed transfer of the shares by Peel Holdings Limited.

(b) That the continuance of the shareholder protections for the minority shareholders, be agreed, subject to the modifications as set out in the submitted report.

(c) That the Managing Director be authorised to implement the decision, as set out at paragraph (a) and (b) above, with authority to make any minor changes that may be required to give effect to this decision, in consultation with the Leader.

(d) That the Assistant Director Law and Governance be authorised to complete and sign the required documents and agreements.

**REASONS** – (a) To enable the transfer of the shares held by Peel Holdings Limited to be implemented.

(b) To support the proposal of the Tees Valley Combined Authority to invest in the future of Durham Tees Valley Airport

**DECISIONS DATED –  
FRIDAY 8 FEBRUARY 2019**