

**DECISIONS SHOULD NOT BE IMPLEMENTED BEFORE  
MONDAY 20 SEPTEMBER 2021**

**CABINET**

Tuesday, 7 September 2021

**PRESENT** – Councillors Mrs H Scott (Chair), Clarke, Dulston, Durham, Keir, Marshall and K Nicholson

**INVITEES** – Councillors Curry, Harker, Snedker and Tait

**C31 INTRODUCTIONS/ATTENDANCE AT MEETING.**

The Leader welcomed Councillor Durham to his first meeting as Cabinet Member with the Resources Portfolio and informed Members that Councillor Tostevin had been appointed to the Adults Portfolio.

**C32 DECLARATIONS OF INTEREST.**

There were no declarations of interest reported at the meeting.

**C33 TO HEAR RELEVANT REPRESENTATION (FROM MEMBERS AND THE GENERAL PUBLIC) ON ITEMS ON THIS CABINET AGENDA.**

No representations were made by Members or members of the public in attendance at the meeting.

**C34 TO APPROVE THE MINUTES OF MEETING OF THIS CABINET HELD ON TUESDAY, 6 JULY 2021.**

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

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

**C35 MATTERS REFERRED TO CABINET**

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

**C36 ISSUES ARISING FROM SCRUTINY COMMITTEE**

There were no issues arising from Scrutiny considered at this meeting.

**C37 KEY DECISIONS:-**

**(1) SCHOOL TERM DATES 2023/24**

The Cabinet Member with the Children and Young People Portfolio introduced the report of the Group Director of People (previously circulated) requesting that consideration be given to setting school term date arrangements (also previously circulated) for Darlington

maintained schools for the Academic Year 2023/24 and to publishing those arrangements by the end of September 2021.

The submitted report stated that following consultation with officers from Local Authorities across the North East and Yorkshire regions, a preferred term date model for the Academic Year 2023/24 was drafted; 42 schools within Darlington, including academies and free schools, and their respective Governing Bodies, had been consulted on the proposed school term dates; from the 33 responses that had been received to that consultation, 31 schools had expressed their preference for the dates in the model calendar; and outlined the additional comments that had been received from three of the schools.

Particular reference was made to the recommendation from the Department for Education, and agreed by Darlington Head Teachers, that the term dates for future years would be set by the Governing Bodies with Local Authorities suggesting a calendar, co-ordinating the consultation exercise and publishing the agreed results.

Reference was made at the meeting to the imbalance of the two half terms around the Autumn half term holidays and the reason for this.

**RESOLVED** – That the proposed school term dates for Darlington maintained schools for the Academic Year 2023/24, as detailed at Appendix 1 to the submitted report, be agreed for publication.

**REASON** - The draft dates are the ones preferred by the majority of schools and Governing Bodies that responded to the consultation, which ended on 2 July 2021.

## **(2) INTRODUCTION OF A CIVIL FINANCIAL PENALTY POLICY - MINIMUM ENERGY EFFICIENCY STANDARDS**

The Cabinet Member with the Stronger Communities Portfolio introduced the report of the Group Director of Services (previously circulated) requesting that consideration be given to utilising powers to be able to issue notices of intention and to impose Civil Penalties where energy efficiency standards fall short of requirements and landlords do not take steps to improve the standards of domestic rented properties.

The submitted report stated that the Council had a statutory duty to enforce the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 (as amended in 2016 and 2019). The regulations were designed to assist Councils to tackle the least energy efficient properties, namely those rated F or G on their Energy Performance Certificate (EPC); established a minimum EPC of Band E for domestic private rented properties, affecting new tenancies and renewals since 1 April 2018; and now allowed local authorities to issue a Notice of the intention to impose a Civil Penalty of up to a maximum of £5,000. The aim of the policy was to improve standards of domestic rented properties.

It was reported that to enable the Council to introduce the powers, there was a requirement to publish a Civil (Financial) Penalty Policy. Utilising best practice from other Local Authorities, including guidance from the Department for Business, Energy and Industrial Strategy (BEIS), the Civil (Financial) Penalty Policy, as appended to the submitted report, was developed.

**RESOLVED** – That the Civil (Financial) Penalty Policy, as detailed at Appendix 1 to the submitted report, be approved and implemented, to allow notices of intention and civil penalties to be imposed where landlords fail to meet or improve the energy efficiency standards of Private Rented Properties to the required standard.

**REASON** - To improve the standards of domestic private rented properties, ensuring homes are of a certain standard, they are more energy efficient and this supports fuel poverty, bringing down energy bills and reducing carbon emissions.

### **C38 PLAYING PITCH AND FACILITIES STRATEGY**

The Cabinet Member with the Health and Housing Portfolio presented the report of the Group Director of Services (previously circulated) presenting the updated Playing Pitch and Built Facility Strategy (also previously circulated) for approval.

The submitted report stated that the Playing Pitch and Built Facility Strategy was updated on a periodic basis to reflect actions taken, new guidance and the future direction of travel to ensure the Council, Partners and other parties were best placed to improve facilities across the Borough; the updated strategy gave consideration to both indoor and outdoor sports facilities (including playing pitches); it set out the strategic direction and site-specific priorities for the future delivery of sports facilities across the Borough until 2031; and that it would remain a valid document for the period 2021/25, when the next review would be undertaken.

It was reported that the existing strategy had successfully driven significant improvement and investment in the sporting infrastructure across the Borough; the vision and drivers for the new strategy remained the same; the updated strategy considered the adequacy of existing provision to meet current and projected future need; and set strategic and site-specific priorities for a range of facilities. References were also made to the methodology for undertaking the review; financial implications; and the consultation undertaken.

In presenting the report the Cabinet Member with the Health and Housing Portfolio made reference to the recommendations from the Communities and Local Services Scrutiny Committee, as detailed in the submitted report, and stated that the Strategy had been updated to include explicit information in respect of disabled sports provision in Darlington, however, it had not been possible to take on board the other two recommendations due to one being outside the scope of the Strategy and due to the tight restrictions relating to the use of the Covid funding.

A Member in attendance at the meeting made reference to the possibility of making funding available for the maintenance and improvement of a playing pitch at North Road. The Cabinet Member with the Health and Housing Portfolio responded thereon.

**RESOLVED** – That the Playing Pitch and Built Facility Strategy, as detailed at the appendix to the submitted report, be approved.

**REASONS** – (a) To inform the Local Plan and to deliver the requirements of the National Planning Policy Framework.

(b) To ensure ongoing sustainability of the facility stock, ensuring that facilities are effectively managed and maintained and that best uses are made of existing resources.

(c) To drive participation in sport and leisure within the Borough.

### **C39 REGULATORY OF INVESTIGATORY POWERS**

The Cabinet Member with the Resources Portfolio introduced the report of the Group Director of Operations (previously circulated) updating Members on issues relevant to the use of the Regulation of Investigatory Powers Act (RIPA) 2000 and developments that have taken place since the last report to Cabinet in March 2021 (Minute C112/Mar/21 refers).

The submitted report stated that the RIPA 2000 enabled local authorities to carry out certain types of surveillance activity as long as specified procedures were followed; the Investigatory Powers Act 2016 (IPA) was the main legislation governing the acquisition of communications data; the information obtained could be relied upon in court proceedings providing RIPA and IPA was complied with; and that no RIPA directed surveillance applications or IPA communications data applications had been authorised since the last report to Cabinet.

Particular references were made in the submitted report to the updating of the RIPA Authorisation forms; the Covert Human Intelligence Sources (Criminal Conduct) Act 2021, which had received Royal Assent in March 2021; the recent newsletter from the Investigatory Powers Commissioner advising that the use of social media as a surveillance tool in the context of child protection matters, would not fall within the RIPA framework; and to the creation of an application form to cover surveillance that fell outside of RIPA.

**RESOLVED** – (a) That the developments that have taken place since March 2021, as detailed in the submitted report, be noted.

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

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

(b) To help in giving transparency about the use of RIPA and IPA in this Council.

### **C40 INVESTMENT FUND UPDATE**

The Cabinet Member with the Resources Portfolio introduced the report of the Group Director of Operations (previously circulated) updating Cabinet on progress against the agreed investments being funded through the Investment Fund.

The submitted report stated that in November 2016 the Council established an investment fund to be used for innovative investment opportunities beyond the traditional Treasury Management Strategy, in order to achieve greater returns, given the low return on investments. The fund provision of £50m had a commitment against it of £37.64m leaving a balance of £12.36m uncommitted; returns on joint ventures were anticipated to generate

over £6M in profit to assist the Medium Term Financial Plan; the fund was currently being used on seven schemes; and whilst the COVID-19 pandemic had had an impact on a couple of the joint venture schemes, in regard to timescales being pushed back, they were now back on track and sales were buoyant.

**RESOLVED** - That the use of the Investment Fund and the returns achieved through the joint venture vehicles, as detailed in the submitted report, be noted.

**REASONS** - (a) To keep Cabinet informed of progress made on opportunities undertaken and investment returns.

(b) To increase development opportunities and ultimately income for the Council.

#### **C41 PROJECT POSITION STATEMENT AND CAPITAL PROGRAMME MONITORING - QUARTER ONE 2021/22**

The Cabinet Member with the Resources Portfolio introduced the report of the Group Director of Operations and the Group Director of 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 current Capital Programme was £268.833m against an approved programme of £269.715m; the investment was delivering a wide range of improvements to the Council's assets and services; the programme, including commitments, remained affordable within the Medium Term Financial Plan (MTFP) for 2021/22 to 2024/25; the Council had 45 live projects, with an overall projected outturn value of £134.570m, the majority of which were running to time, cost and quality expectations, but were being monitored given the current pressures on resources in the construction sector nationally; and that the projects were managed either by the Council's in-house management team, a Framework Partner or by Consultants source via an open/OJEU tender process.

Particular references were made at the meeting to the reasons for the delay in the refurbishment of the Crown Street Library; when the Rise Carr SEND project would be completed as the landscaping work was still on-going; and the delays caused to the Allington Way project by the market shortage in bricklayers. The Cabinet Members with the Resources and the Local Services Portfolios responded thereon.

**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 review and final outturn of the scheme, as detailed in paragraph 19 of the submitted report, be noted.

(d) That the adjustments to resources, as detailed in paragraph 24 of the submitted report, be approved.

**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.

#### **C42 COMPLAINTS, COMPLIMENTS AND COMMENTS ANNUAL REPORTS 2020/21**

The Cabinet Member with the Resources Portfolio introduced the report of the Chief Executive, Group Director of Operations, Group Director of People and the Group Director of Services (previously circulated) providing Cabinet with the 2020/21 Complaints, Compliments and Comments Annual Reports for Adult Social Care, Children's Social Care, Corporate, Housing and Public Health (all also previously circulated).

The submitted report stated that in 2020/21 a total number of 628 complaints had been received, a decrease from 838 in 2019/20; 309 compliments had been received, an increase from 292 in 2019/20; and 178 comments had been received, an increase from 168 in 2019/20.

**RESOLVED** - (a) That the content of the Adult Social Care, Children's Social Care, Corporate, Housing and Public Health Complaints, Compliments and Comments Annual Reports, all as appended the submitted report, be noted.

(b) That the further recommendations as detailed in the Adult Social Care, Children Social Care and Corporate Complaints, Compliments and Comments Annual Reports, as appended to the submitted report, be endorsed.

**REASONS** - (a) To make Cabinet aware of the number and nature of the complaints, compliments and comments received by the Council and the organisational learning that had taken place as a result.

(b) To enable the Council to further improve its services as a result of the complaints, compliments and comments received and improve satisfaction with complaints handling.

#### **C43 REVIEW OF OUTCOME OF COMPLAINTS MADE TO OMBUDSMAN**

The Cabinet Member with the Resources Portfolio introduced the report of the Chief Executive, Group Director of Operations, Group Director of People and the Group Director of Services (previously circulated) providing Members with an update of the outcome of cases which had been determined by the Local Government and Social Care Ombudsman (LGSCO) and the Housing Ombudsman (HO) during 2020/21 and providing Members with the LGSCO's Annual Review Letter (also previously circulated).

The submitted report stated that during the 2020/21 the Council received two upheld Maladministration Injustice decisions from the LGSCO, compared to six in 2019/20 and that organisational learning identified as a result of those complaints should ensure that there

was no re-occurrence.

It was reported that although the LGSCO recorded their satisfaction with the Council's compliance rate in relation to their recommendations they had raised concern in respect of the delay in implementing their recommendations in two cases. As a result, the Council would consider how it might make improvements to reduce delays in the remedy process.

The Cabinet Member with the Health and Housing Portfolio reported at the meeting that as a result of the Complaint to the HO work was underway to review the terms and conditions in the Council's tenancy agreement.

**RESOLVED** - That the contents of the report be noted.

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

(b) The contents of the submitted report do not suggest that further action, other than detailed in the report, is required.

#### **C44 SCHEDULE OF TRANSACTIONS**

The Cabinet Member with the Resources Portfolio introduced the report of the Chief Executive (previously circulated) requesting that consideration be given to the Schedule of Transactions (also previously circulated).

**RESOLVED** – That the Schedule of Transactions, as detailed in the submitted report, be approved, and the transactions be completed on the terms and conditions detailed therein.

**REASONS** – The terms negotiated require approval by Cabinet before binding itself contractually to a transaction.

#### **C45 MEMBERSHIP CHANGES - TO CONSIDER ANY MEMBERSHIP CHANGES TO OTHER BODIES TO WHICH CABINET APPOINTS.**

There were no membership changes reported at the meeting.

**DECISIONS DATED –  
FRIDAY 10 SEPTEMBER 2021**