



**DARLINGTON**

Borough Council

# Cabinet Agenda

5.00 pm

Tuesday, 5 April 2022

Council Chamber, Town Hall, Darlington DL1 5QT

**Members and Members of the Public are welcome to attend this Meeting.**

1. Introductions/Attendance at Meeting.
2. Declarations of Interest.
3. To hear relevant representation (from Members and the General Public) on items on this Cabinet agenda.
4. To approve the Minutes of the meeting of this Cabinet held on Tuesday, 8 March 2022. (Pages 5 - 10)
5. Matters Referred to Cabinet –  
There are no matters referred back for reconsideration to this meeting
6. Issues Arising from Scrutiny Committee –  
There are no issues referred back from the Scrutiny Committees to this Meeting, other than where they have been specifically consulted on an issue and their comments are included in the contents of the relevant report on this agenda.
7. Key Decisions:-
  - (a) Annual Procurement Plan Update – Report of the Group Director of Operations. (Pages 11 - 24)
  - (b) Tees Valley Energy Recovery Facility Local Authority Special Purpose Vehicle – Report of the Group Director of Services. (Pages 25 - 450)

8. Disposal of Land at 294 Haughton Road, Darlington – Report of the Chief Executive.  
(Pages 451 - 458)
9. Schedule of Transactions – Report of the Chief Executive.  
(Pages 459 - 462)
10. Membership Changes - To consider any Membership Changes to Other Bodies to which Cabinet appoints.
11. SUPPLEMENTARY ITEM(S) (if any) which in the opinion of the Chair of this Committee are of an urgent nature and can be discussed at this meeting.
12. Questions.

### **EXCLUSION OF THE PUBLIC AND PRESS**

13. To consider the exclusion of the Public and Press :- –  
**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.

### **PART III NOT FOR PUBLICATION**



**Luke Swinhoe**  
**Assistant Director Law and Governance**

**Monday, 28 March 2022**

**Town Hall**  
**Darlington.**

#### **Membership**

Councillors Clarke, Dulston, Durham, Keir, Marshall, K Nicholson, Mrs H Scott and Tostevin

If you need this information in a different language or format or you have any other queries on this agenda please contact Lynne Wood, Elections Manager, Operations Group, during normal office hours 8.30 a.m. to 4.45 p.m. Mondays to Thursdays and 8.30 a.m. to 4.15 p.m. Fridays (e-mail [Lynne.Wood@darlington.gov.uk](mailto:Lynne.Wood@darlington.gov.uk) or telephone 01325 405803).

**DECISIONS SHOULD NOT BE IMPLEMENTED BEFORE  
MONDAY 21 MARCH 2022**

**CABINET**

Tuesday, 8 March 2022

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

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

**APOLOGIES** – Councillors Clarke and Tait

**ALSO IN ATTENDANCE** – Councillor McCollom

**C107 CONFLICT IN UKRAINE**

**RESOLVED** – That a short silence be observed to reflect on the conflict in Ukraine and in particular, for those women affected by the conflict, on International Women’s Day.

**REASON** – As a mark of respect for those affected by the conflict in Ukraine.

**C108 DECLARATIONS OF INTEREST.**

There were no declarations of interest reported at the meeting.

**C109 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.

**C110 TO APPROVE THE MINUTES OF THE MEETING OF THIS CABINET HELD ON TUESDAY, 8 FEBRUARY 2022.**

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

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

**C111 MATTERS REFERRED TO CABINET**

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

**C112 ISSUES ARISING FROM SCRUTINY COMMITTEE**

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

**C113 KEY DECISIONS:-**

**(1) SUPPLEMENTARY PLANNING GUIDANCE (SPD) DESIGN CODE - BURTREE GARDEN VILLAGE**

The Cabinet Member with the Economy Portfolio introduced the report of the Chief Executive (previously circulated) requesting that consideration be given, following the adoption of the Darlington Local Plan 2016/36 (Darlington Local Plan), to transforming the existing Greater Faverdale (Burtree Garden Village) Design Code, produced by DesignNE, into a Supplementary Planning Document in coherence with the National Planning Policy Framework changes in July 2021 and, in particular, the National Model Design Code.

The submitted report stated that the Homes England supported Garden Community and site allocation Greater Faverdale (Burtree Garden Village) had been adopted by the Darlington Local Plan 2016/36; the Inspectors report and the suggested modifications detailed the policy for the site in H11 and suggested that the current Greater Faverdale Design Code produced by DesignNE be consulted upon and turned into a Supplementary Planning Document (SPD) Design Code for Burtree Garden Village within six months of the adoption of the Local Plan; it needed to be consulted upon for a minimum of four weeks; once the consultation exercise had been completed the amended SPD would return to Cabinet and Full Council for approval and adoption; and it would then form part of the Council's Supplementary Planning Policy which would be used as material consideration in the Planning application process.

Particular reference was made at the meeting to the consultation process.

**RESOLVED** - That the contents of the Supplementary Planning Document, as appended to the submitted report, and the process of creating the Burtree Garden Design Code Supplementary Planning Document, as detailed in the submitted report, be approved.

**REASON** - The Council must follow the National Planning Policy Framework (NPPF) and the Inspectors report to convert the Current Greater Faverdale Design Code into a Supplementary Planning Document within six months of the adoption of the Darlington Local Plan 2016/36.

**(2) LOCAL TRANSPORT PLAN**

The Cabinet Member with the Local Services Portfolio introduced the report of the Group Director of Services (previously circulated) providing Members with the annual update on highways and transport from a regional and local perspective; outlining the delivery, performance and public satisfaction in 2021/22; requesting that consideration be given to the 2022/23 programme, including the release of funding; and providing an update on the Tees Valley Strategic Transport Plan and the Darlington Transport Plan.

The submitted report stated that changes in travel behaviour had been one of the very visible impacts of Covid-19; the bus and rail industry had been significantly impacted; online shopping and home deliveries had increased the number of vans and lorries on the roads, which was unlikely to abate; many people were continuing to work from home with a move to more agile working combining home and office work; and as a result the transport sector would need to work hard to increase bus and rail services back to full capacity and encourage

passengers back on to them.

It was reported that there had been good progress on the delivery and development of the transport capital programme including working in partnership with the Tees Valley Combined Authority (TVCA) to deliver elements of the strategic transport plan; there was a focus by the Department for Transport on progressing the Local Cycling and Walking Infrastructure Plans (LCWIP) and the Bus Service Improvement Plans (BSIP); Darlington had started the delivery of one of two priority schemes in the LCWIP with the creation of phase one of a cycling route on Woodland Road; and that the BSIP had been submitted and progress was being made on the Enhanced Bus Partnership.

Particular references were made to the Transport Strategy for the Borough, Town Centre Transport Plan and Parking Strategy which were being developed and to the revised Travel Plan Policy which aimed to ensure that high quality travel plans and personalised travel planning could be delivered as an integral part of the Planning Process, in particular on large scale housing developments. References were also made to the performance in 2021/22; public satisfaction; financial and legal implications; estates, property and procurement advice; equalities considerations; and consultation, which would be undertaken on the individual schemes.

In presenting the report, the Cabinet Member with the Local Services Portfolio acknowledged the contribution to the report of Sue Dobson, Transport Policy Manager, who was due to retire shortly, and to the significant funding that she had helped secure for Darlington and national prominence in Sustainable Transport.

References were made at the meeting to a number of government targets; enabling active travel; the funding spent on tackling 'rush hour' congestion in particular; the work undertaken on Geneva Road in respect of speeding 'hot spots'; the need to publicise the amount of work undertaken to tackle pot holes; the challenge of encouraging people to use public transport; and to speed of mobility scooters in the Town Centre. The Cabinet Member the Local Services Portfolio responded thereon.

**RESOLVED** – (a) That the progress in delivering the Local Transport Plan, as detailed in the submitted report, be noted, and £0.893m of Integrated Transport Block and £2.175m of Highway Maintenance Funding, subject to confirmation by the Tees Valley Combined Authority and the Department for Transport respectively, to deliver the 2022/23 transport programme, be released.

(b) That the release of monies, subject to Department for Transport and Tees Valley Combined Authority confirmation, to deliver the Tees Valley Local Cycling and Walking Infrastructure Plan (LCWIP), specifically Phase 2 of the Woodland Road scheme; to deliver elements of the Bus Service Improvement Plan (BSIP); and to deliver other schemes as detailed in the City Region Sustainable Transport Settlement Business Case, all as detailed in the submitted report, be approved.

(c) That the Travel Plan Guidance, as appended to the submitted report, be approved, with measures funded from section 106 agreements.

(d) That it be agreed to be party to the Tees Valley Enhanced Bus Partnership, which was

presently a shell agreement with no direct obligations on formation, the detail of obligations being added over time and subject to individual considerations and approvals.

(e) That delegated authority be given to the Assistant Director for Highways and Capital Projects, in consultation with Cabinet Member with the Local Services Portfolio and legal team, to engage through the bus partnership governance structure and agree further detail in relation to any priority, which had implications on the highway network, subject to confirmation of funding and satisfactory completion of the necessary statutory processes.

**REASONS** – (a) To continue to deliver Darlington’s Transport Strategy as set out in the Third Local Transport Plan and to maximise the opportunities to maintain the highway asset for the benefit of all road users.

(b) To deliver the Walking Infrastructure Plans (LCWIP) and the Bus Service Improvement Plans (BSIP) in line with Government guidance.

(c) To ensure that high quality travel plans are submitted and then implemented as part of the planning process in order to minimise the traffic impact of residential and non-residential development, and secure better quality development in Darlington.

(d) Coronavirus continues to impact on bus services in terms of patronage, service delivery and operational timetabling. These impacts coupled with uncertainty around the potential funding to support the delivery of the Bus Service Improvement Plan (BSIP) has made the process more challenging. It therefore needs to be recognised that the BSIP and EP need to be fluid and will be adapted as there is more certainty, particularly around the funding allocation.

(e) Enhanced Partnerships or other formal arrangements with Bus operators are required in the future to secure Funding from Government as part of the Government Policy direction to Improve Public Transport.

#### **C114 DARLINGTON CULTURAL STRATEGY 2022/26**

The Cabinet Member with the Local Services Portfolio introduced the report of the Group Director of Services (previously circulated) requesting that consideration be given to the Darlington Cultural Strategy 2022/26 and associated action plan for 2022/23 (both also previously circulated).

The submitted report stated that the Darlington Cultural Strategy 2022/26 articulated the importance of culture and how it could contribute to the priorities of the Council Plan; it set out the vision and priorities for cultural activity which was focused on maximising the social and economic benefits that culture could bring to people across Darlington, including residents, visitors, and those working and investing in Darlington; and that it had been informed by research and discussion with Arts Council England, Tees Valley Combined Authority and Creative Darlington, with comments being received from partners including Darlington for Culture, Darlington Hippodrome, the Forum Music Studios and Theatre Hullabaloo. The strategy included an annual action plan that would be monitored to track progress and refreshed annually to ensure there was a focus on achieving the vision and priorities set out in the strategy.

References were made to the financial implications of the strategy; outcome of consultation; and the feedback from the Communities and Local Services Scrutiny Committee, who had considered the draft Strategy.

**RESOLVED** - That the Darlington Cultural Strategy for 2022/26 and the action plan for 2022/23, both as appended to the submitted report, be approved.

**REASONS** - To ensure that Darlington has a Cultural Strategy placing it in a stronger position to attract external funding and opportunities as they arise.

## **C115 REGULATORY INVESTIGATORY POWERS ACT (RIPA)**

The Cabinet Member with the Resources Portfolio introduced the report of the Group Director of Operations (previously circulated) informing and 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 September 2021 (Minute C39/Sep/21 refers).

The submitted report stated that the RIPA Act 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.

References were made to the Home Office consultation on the redrafted Covert Human Intelligence Sources (CHIS) Code of Conduct, which reflected the new provisions contained in the CHIS (Criminal Conduct) Act 2021, that had closed on 6 February 2022; the Investigatory Powers Commissioner's Annual Report; and to the refresher training that had been undertaken with officers.

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

(b) That further reports on the use of Regulation of Investigatory Powers 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, IPA and national guidance.

(b) To update the RIPA policy and procedures to reflect both legislative, operational and structural changes.

## **C116 SCHEDULE OF TRANSACTIONS**

The Cabinet Member with the Resources Portfolio introduced the report of the Director of Economic Growth and Neighbourhood Services (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.

**C117 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 11 MARCH 2022**



**CABINET  
5 APRIL 2022**

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## **ANNUAL PROCUREMENT PLAN UPDATE**

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**Responsible Cabinet Member – Councillor Scott Durham, Resources Portfolio**

**Responsible Officer – Elizabeth Davison, Group Director of Operations**

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### **SUMMARY REPORT**

#### **Purpose of the Report**

1. To present the Annual Procurement Plan Update to Cabinet for approval. Cabinet are asked to consider and approve the assessment of contracts that are considered to be strategic or non-strategic.
2. To update Cabinet on the outcomes of procurement(s) previously designated as Strategic.
3. To update Cabinet about the decisions taken by the Procurement Board to waive the Contract Procedure Rules.

#### **Recommendation**

4. It is recommended that:
  - (a) Members approve the assessment of strategic and non-strategic contracts as presented in **Appendix 1** and that:
    - (i) Further reports/updates on the procurement process for those contracts designated as strategic (including decisions made by the Procurement Board) be brought to Cabinet.
    - (ii) Members note that contract award decisions for the contracts designated as strategic, as listed in the plan at Appendix 1, will be subject to approval by the Procurement Board to and will be reported back to Cabinet.
    - (iii) Members note that contract award decisions for the contracts designated as non-strategic will be made by staff from the appropriate Directorate as listed in the plan at Appendix 1.
  - (b) That Members note the contents of this report in respect of the update of strategic procurements, Procurement Board waiver decisions, and Social Value.

## **Reasons**

5. In respect of strategic/non-strategic contracts, the recommendations are supported by the following reasons:
  - (a) The Contract Procedure Rules require Cabinet to approve the designation of contracts as strategic and non-strategic and;
  - (b) Contracts designated strategic are of high value and high significance in respect of the impact on residents, Health & Safety and public safety.
  - (c) The contracts designated non-strategic are of a lower value and lower significance in respect of the impact on residents and public safety.
6. In respect of Procurement Board waiver decisions, the recommendations are supported by the following reasons:
  - (a) In order to comply with the Contract Procedure Rules.
  - (b) To provide Cabinet with information about the decisions made by the Procurement Board.
  - (c) To supplement the reports that are taken to Cabinet about proposed spend over £100,000, that are set out in the Annual Procurement Plan and the in year update to that report.

**Elizabeth Davison**  
**Group Director of Operations**

## **Background Papers**

No background papers were used in the preparation of this report.

Patrick Saunders: Extension 5493

S17 Crime and Disorder	This decision will not have any direct impact on Crime and Disorder
Health and Well Being	This decision will not have any direct impact on Health and Wellbeing
Carbon Impact and Climate Change	This decision will not have a direct impact on the Council's carbon footprint.
Diversity	This decision will not have any direct impact on Diversity
Wards Affected	This decision will not affect any wards
Groups Affected	This decision will not have an impact on any groups.
Budget and Policy Framework	This report does not recommend changes to the Budget and Policy Framework
Key Decision	Yes
Urgent Decision	No
Council Plan	Strategic oversight of procurement will help in the delivery of the Council's objectives
Efficiency	The production of the update to the Procurement Plan is designed to save Member and Officer time for requesting delegated powers to make contract award decisions.
Impact on Looked After Children and Care Leavers	This report has no direct impact on Looked After Children or Care Leavers

## MAIN REPORT

### Information and Analysis

#### Strategic Contracts

7. Any contract award decision with a value below £100,000 is delegated to officers. Under the Contract Procedure Rules an annual Procurement Plan is produced listing details of all existing and new contracts that are £100,000 or above and which require a tender process.
8. This then allows Cabinet to be advised of the contracts of £100,000 and over and to decide which of those contracts are strategic.
9. For those contracts designated strategic, in accordance with the Contract Procedure Rules, the final contract award decision will be approved by the Procurement Board and will be reported to Cabinet.
10. For the contracts designated non-strategic, the final contract award decision will be made In accordance with the Contract Procedure Rules, by staff from the relevant Directorate and detailed in the decision record.

#### Assessment of contracts

11. Details of which contracts are designated strategic, and which are designated non-strategic are detailed in Appendix 1. The contracts have been assessed against the criteria agreed by Cabinet, the criteria are provided at **Appendix 2** for information. However, Members and Officers may decide to recommend other than what the score suggests. Anything else would be considered non-strategic.
12. Based on the criteria there are three contract that are designated strategic in the update to the Annual Plan:
  - (a) **NEPO603 Framework for the provision of Independent Foster Agency service**  
Collaborative open tender exercise, carried out by NCC on behalf of NEPO.
  - (b) **Disposal of former St Modwen's land including infrastructure works**  
The disposal will be via an open over threshold tender exercise.
  - (c) **Supply of Materials and Products for the Repairs & Maintenance to Council Housing and Public Buildings**  
The procurement via be via an open over threshold procurement exercise, with the successful suppliers located within the Borough of Darlington.

#### **Update on Procurements previously designated as Strategic**

13. There was no strategic procurement activity detailed in the previous update.

#### **Procurement Board waiver decisions**

14. Under the Contract Procedure Rules, the Procurement Board may waive the Contract Procedure Rules in specific circumstances and is required to report waiver decisions that have been made to Cabinet.
15. The Contract Procedure Rules can only be waived as an exception. The Contract Procedure Rules require the Procurement Board when considering requests for waivers to take into account the following:
  - (a) The contract value and the length of the proposed contract.
  - (b) What steps have been taken to satisfy that the best value duty has been complied with (for instance quotations, market testing).
  - (c) The extent to which there are good reasons why it is not possible to undergo a competitive process (for instance, pressing need or urgency, where further work is required before going to market, where only a short contract extension is needed, or the lack of an available market).
  - (d) Whether the new contract is intended to be a stop gap prior to undergoing a competitive process.
  - (e) The availability of compliant alternatives to direct awards, such as frameworks.

(f) Any other reason that is being given by the commissioning area.

16. This report details the circumstances and the reasons why the contract procedure rules have been waived by Procurement Board at **Appendix 3**, during the period to 1 March 2022.

### **Social Value**

17. A further update on the social value generated within procurement activity, will be detailed in the October update.

### **Outcome of Consultation**

18. No consultation was carried out in preparation of this report.

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Item No	Procurement Board Number	Current Supplier or New Contract	Description of Contract	Contract Term in years	Approx Contract Value per annum	Approx Total contract Value	ASSESSMENT MATRIX (To be completed by Procurement)					Total	Strategic	Award of Contract Procurement Board/Directorate	Procurement Route if Known
							Cost	Impact on Residents (1)	Risk - Financial, Health & Safety, Public (2)	Innovative in design, New form of contract, Sustainability (3)	External Monitoring e.g. from funding body (4)				
1	PB2022-00611	Vodafone	Mobile phones and SIMd	3	£ 180,000.00	£ 540,000.00	1	1	1	1	1	5	Non Strategic	Operations	Direct Award Call Off via the CCS Framework RM3808
2		Various	NEPO225 Traffic Management	4	£ 900,000.00	£ 3,600,000.00	4	4	1	1	1	11	Non Strategic	Services	Collaborative Over Threshold Open Tender
3	PB2022-00613	Various	NEPO603 Framework for the provision of Independent Foster Agency service.	6	£ 3,500,000.00	£ 21,000,000.00						15	Strategic	Procurement Board	Over Threshold Collaborative Open Tender
4	PB2021-00571	Darlington College	Construction of a Business Development Hub to delivery Tlevel Qualificaitons	1	£ 2,900,000.00	£ 2,900,000.00	3	4	1	2	4	14	Non Strategic	Chief Executive	Funding Agreement
5		Bibliotheca	NEPO418 Library Books and Digital Content	4	£ 75,000.00	£ 300,000.00	1	4	1	1	1	8	Non Strategic	Services	Collaborative Over Threshold Open Tender
6		Durham County	Lift and Lift Maintenance	4	£ 60,000.00	£ 240,000.00	1	2	1	1	1	6	Non Strategic	Operations	Mini Comp
7	PB2021-00344	Equita	Enforcement Services	4	£ 100,000.00	£ 400,000.00	1	4	2	1	1	9	Non Strategic	Operations	Mini competition through ESPO framework
8		New Contract	Disposal of former St Modwen's land including infrastructure works		£ 5,000,000.00	£ 5,000,000.00						15	Strategic	Procurement Board	Over Threshold Open Tender
9		Various	NEPO212 Construction and Engineering Consultancy	5	£ 250,000.00	£ 1,250,000.00	2	1	1	1	1	6	Non Strategic	Operations	Collaborative Over Threshold Open Tender
10		Various	Framework Agreement for the Provision of Residential Care for Adults with a Disability	4	£ 1,100,000.00	£ 4,400,000.00	5	4	1	1	1	12	Non Strategic	People	Over Threshold Open Tender
11		Various	Supply of Materials and Products for the Repairs & Maintenance to Council Housing and Public Buildings	6	£ 1,600,000.00	£ 9,600,000.00						15	Strategic	Procurement Board	Over Threshold Open Tender
12		Various	Framework Agreement for Day Opportunities for Adults, Adults with MH problems, Adults with a Disability)	4	£ 940,000.00	£ 3,760,000.00	4	4	1	1	1	11	Non Strategic	People	Over Threshold Open Tender
13		Various	Ongoing Fleet Replacement Programme	1	£ 2,000,000.00	£ 2,000,000.00	3	4	1	1	1	10	Non Strategic	Services	Further Competition on NEPO/TPPL Frameworks
14		Various	Installation of Electric charging points at Council depot	1	£ 500,000.00	£ 500,000.00	1	4	1	1	1	8	Non Strategic	Services	Further Competition on NEPO/TPPL Frameworks
15		New Contract	M & E Installation within Dolphin Centre	1	£ 2,200,000.00	£ 2,200,000.00	3	4	1	1	1	10	Non Strategic	Services	Further Competition on the NEPO Framework
16		New Contract	Supply and Installation of Fitness Equipment at Dolphin Centre	1	£ 250,000.00	£ 250,000.00	1	4	1	1	1	8	Non Strategic	Services	Further Competition on the ESPO Framework
17		New Contract	Dolphin Centre Pool Tank Repairs	2	£ 75,000.00	£ 150,000.00	1	4	1	1	1	8	Non Strategic	Services	Tender to a minimum of 5 suppliers
18		New Contract	Northern Echo Refurbishment - Ground Floor (works)	1	£ 1,200,000.00	£ 1,200,000.00	2	2	1	1	3	9	Non Strategic	Chief Executive	Tender or Other Organisations Framework
19		New Contract	Northern Echo Refurbishment - Ground Floor (design)	1	£ 120,000.00	£ 120,000.00	1	2	1	1	3	8	Non Strategic	Chief Executive	Tender or Other Organisations Framework
20		New Contract	Skinnergate Highway Works	1	£ 1,200,000.00	£ 1,200,000.00	2	4	2	1	3	12	Non Strategic	Chief Executive	Tender or Other Organisations Framework
21		New Contract	Victoria Road - Property Enhancements Desin and Works	1	£ 600,000.00	£ 600,000.00	1	4	1	1	3	10	Non Strategic	Chief Executive	Tender or Other Organisations Framework
22		New Contract	Northgate Area Highway Design and Works	1	£ 1,000,000.00	£ 1,000,000.00	1	4	2	1	3	11	Non Strategic	Chief Executive	Tender or Other Organisations Framework
23	PB2022-00652	Civica	PCI Compliant Software (a mid call solution)	5	£ 35,355.00	£ 176,775.00	1	2	1	1	1	6	Non Strategic	Services	Direct Award Call Off via the CCS Framework RM3821

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ASSESSMENT MATRIX FOR STRATEGIC PROCUREMENT					
VALUE		SIGNIFICANCE			
Cost		Impact on Residents (1)	Risk - Financial, Health & Safety, Public (2)	Innovative in design, New form of contract, Sustainability (3)	External Monitoring e.g. from funding body (4)
=> £5,000,000	Automatically considered strategic				
Between £4,000,000 & £4,999,999	5	5	5	5	5
Between £3,000,000 & £3,999,999	4	4	4	4	4
Between £2,000,000 & £2,999,999	3	3	3	3	3
Between £1,000,000 & £1,999,999	2	2	2	2	2
Less than £1,000,000	1	1	1	1	1
Score	0	0	0	0	0
<b>Total Score</b>	<b>0</b>	<b>This procurement is</b>		<b>Non-Strategic</b>	

Each procurement must be reviewed against the matrix above. Any contract with an overall value in excess of £5,000,000 will be considered strategic. For any procurement where the value of the contract falls below £5,000,000 the goods or services to be purchased must be assessed on the value and the significance in relation to the other 4 columns and marked accordingly, where 5 is considered to be high significance and 1 low significance. Once a score has been decided for each column it is put in the relevant cell (c17 - K17) the spreadsheet automatically collates the score and determines if the procurement is strategic or non-strategic. Anything that scores 15 or more considered to be strategic. If however a procurement comes out as non-strategic but officers feel they would still want political support for the decision they can choose to take a report to Cabinet.

Note 1: What is the impact on residents? Is it restricted to one street, or estate or is it much wider than that? Does it affect 2 or more wards?

Note 2: Is there significant financial risk to the authority? Is there a H&S risk e.g. care for vulnerable people? Is there a risk to the public? Reputational risk?

Note 3: Is the authority familiar with the form of contract being entered into? Is the contract innovative in its delivery? Are we changing the service?

Note 4: Are there any specific requirements from external funders that represent a risk to the authority e.g. Pathfinder projects for DFES?

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## APPENDIX 3

**PROCUREMENT BOARD DECISIONS TO WAVE CONTRACT PROCEDURE RULES WITH A CONTRACT VALUE OVER £100K  
SEPTEMBER 2021 - MARCH 2022**

Procurement Board Reference Number	Approval Date	Description	Contract Term	Contract Value	Supplier
PB2021-00493	28 September 2021	Direct Award - Young Person Supported Accommodation Placement No suitable placements available on the Councils contracted provision to meet the needs	1 year	£ 187,200.00	Reach Out Care- Transition Service
PB2021-00496	28 September 2021	Direct Award - Childrens Residential Placement No suitable placements available on the Councils contracted provision to meet the needs	1 year	£ 154,629.00	Spring Hill School
PB2021-00498	28 September 2021	Direct Award - Childrens Day Placement No suitable placements available on the Councils contracted provision to meet the needs	3 years	£ 181,620.00	Breckenbrough School
PB2021-00500	12 October 2021	Direct Award - Childrens Day Placement No suitable placements available on the Councils contracted provision to meet the needs	22 months	£ 169,099.00	Hartwell School
PB2021-00511	12 October 2021	Direct Award - Electrical Refurbishment Works for the Crown Street library in Darlington Town Centre Benchmarking has been undertaken	10 months	£ 542,000.00	LEC Electrical Contractors
PB2021-00512	12 October 2021	Direct Award - Mechanical Refurbishment Works for the Crown Street library in Darlington Town Centre Benchmarking has been undertaken	10 months	£ 167,788.00	Twin Services
PB2021-00516	26 October 2021	Direct Award - School Transport for QE and Hurworth Urgent requirement inline with the Public Contracts Regulations	3 months	£ 187,000.00	Compass Royston
PB2021-00524	26 October 2021	Direct Award - Healthwatch Services Extending the original contract and benchmarking has been undertaken	2 years + 2 x 12 months	£ 301,648.00	Healthwatch Darlington
PB2021-00529	23 November 2021	Direct Award - Stop Smoking Service. Benchmarking has been undertaken and a review of the service is required with a procurement exercise to be carried out	2 years + 2 x 12 months	£ 420,000.00	County Durham and Darlington NHS Foundation Trust
PB2021-00535	09 November 2021	Direct Award - 0-19 Years' Service A review of the service is required to enable the Council to enter into a Section 75 Agreement.	6 months	£ 1,090,440.00	Harrogate and District NHS Foundation Trust

		Direct Award - Retrospective Adult Residential Placement			
PB2021-00537	09 November 2021	No suitable placements available on the Councils contracted provision to meet the needs	4 years	£ 121,805.29	St Michael's Court
		Direct Award - Children's Home Placement			
PB2021-00545	23 November 2021	No suitable placements available on the Councils contracted provision to meet the needs	2 years + 2 x 12 months	£ 717,600.00	Enhanced Care - Holme Farm
		Direct Award - Adult Residential Placement			
PB2021-00547	23 November 2021	No suitable placements available on the Councils contracted provision to meet the needs	4 years	£ 192,918.00	Neem Tree
		Direct Award - Adult Care Packages			
PB2021-00551	23 November 2021	No suitable placements available on the Councils contracted provision to meet the needs	4 years	£ 217,856.56	Care Matters
		Direct Award - School Transport Routes QE and Hurworth.			
PB2021-00555	23 November 2021	Urgent requirement inline with the Public Contracts Regulations	2.5 years	£ 1,045,000.00	Compass Royston
		Direct Award - Adult Residential Placement			
PB2021-00556	23 November 2021	No suitable placements available on the Councils contracted provision to meet the needs	4 years	£ 150,494.24	D3 Care Limited
		Direct Award - Childrens Residential Placement			
PB2021-00561	22 December 2021	No suitable placements available on the Councils contracted provision to meet the needs	6.5 years	£ 1,143,148.00	Wings
		Direct Award - Adult Care Packages			
PB2021-00566	07 December 2021	No suitable placements available on the Councils contracted provision to meet the needs	4 years	£ 109,348.08	Care Matters
		Direct Award - Household Support Fund			
PB2021-00573	07 December 2021	To be added to the original contract to ensure continuation of the services	4 months	£ 177,352.00	The Bread and Butter Thing Charity
		Direct Award - Childrens Day Placement			
PB2021-00576	22 December 2021	No suitable placements available on the Councils contracted provision to meet the needs	3 Years 7 Months	£ 265,727.00	Ashbrooke School - Witherslack Group
		Direct Award - External Foster Placement			
PB2021-00577	22 December 2021	No suitable placements available on the Councils contracted provision to meet the needs	1 Year	£ 123,853.60	Changing Futures Fostering
		Direct Award - Preliminary Investigation and Design Work and Planning Application for Proposed Residential Scheme at Burtree			
PB2021-00580	22 December 2021	Benchmarking has been undertaken	9 months	£ 189,330.00	Esh Homes
		Direct Award - Childrens Residential Placement			
PB2021-00581	22 December 2021	No suitable placements available on the Councils contracted provision to meet the needs	2 years	£ 129,588.00	Breckonbrough School

PB2021-00584	22 December 2021	Direct Award - Childrens Residential Placement No suitable placements available on the Councils contracted provision to meet the needs	2 years 6 Months	£ 212,224.00	Witherslack Group/ Ashbrooke School
PB2022-00589	18 January 2022	Direct Award - Adult Nursing Placement No suitable placements available on the Councils contracted provision to meet the needs	4 years	£ 202,928.88	St Helens Care Home
PB2022-00594	18 January 2022	Direct Award - Childrens Residential Placement No suitable placements available on the Councils contracted provision to meet the needs	1 Year	£ 154,629.00	Spring Hill School
PB2022-00603	18 January 2022	Direct Award - Funding Agreement to Hurworth Primary School to undertake capital works to enhance the educational facilities at the school.	1 year	£ 149,781.25	Hurworth Primary School
PB2022-00605	01 February 2022	Direct Award - Roof Refurbishment Works for the Crown Street library in Darlington Town Centre. Benchmarking has been undertaken	12 months	£ 826,000.00	Hodgson Sayers
PB2022-00616	01 February 2022	Direct Award - Supply of Materials and Products for the Repairs & Maintenance to Council Housing and Public Buildings, inc. PPE Benchmarking has been undertaken, with a procurement exercise to be carried out.	12 months	£ 2,932,000.00	Jewson Crosslings Yesss Electrical Magnet MKM
PB2022-00625	15 February 2022	Direct Award - Funding Agreement to Hurworth Secondary School to undertake capital works to enhance the educational facilities at the school.	1 year 2 months	£ 145,869.77	Hurworth Secondary School
PB2022-00629	15 February 2022	Direct Award - Adult Residential Placement No suitable placements available on the Councils contracted provision to meet the needs	4 years	£ 221,524.00	PIPS
PB2022-00636	01 March 2022	Direct Award - Darlington Refuge Provision Review of service to be undertaken and a tender exercise to be carried out	2 Years	£ 165,565.00	Family Help
PB2022-00637	01 March 2022	Direct Award - Domiciliary Care Rockcliffe Court No suitable placements available on the Councils contracted provision to ensure the level of service to meet the needs	1+1 year	£ 305,084.00	St John of God Hospitaller Services
PB2022-00638	01 March 2022	Direct Award - For the Supply of Beer and Bottled Products at Hippodrome Benchmarking has taken place and a reduction in price has been agreed	2 + 1 year	£ 132,000.00	Heineken
PB2022-00639	01 March 2022	Direct Award - Childrens Day Placement No suitable placements available on the Councils contracted provision to meet the needs	5 Years	£ 362,355.00	Hartwell School

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**CABINET  
5 APRIL 2022**

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**TEES VALLEY ENERGY RECOVERY FACILITY LOCAL AUTHORITY SPECIAL PURPOSE VEHICLE**

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**Responsible Cabinet Member -  
Councillor Andy Keir, Local Services Portfolio**

**Responsible Director -  
Dave Winstanley, Group Director of Services**

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**SUMMARY REPORT**

**Purpose of the Report**

1. The purpose of this report includes:
  - (a) Providing an update to Members regarding all aspects of the Tees Valley Energy Recovery Facility (TV-ERF) project.
  - (b) The rationale for setting up the Local Authority Special Purpose Vehicle (LA-SPV) and how this will be governed as well as the commercial principles as to how costs and liabilities shall be shared between seven Councils over the term of the Project.
  - (c) The decisions that Members are being asked to consider.

**Summary**

2. Darlington Borough Council, Durham County Council, Hartlepool Borough Council, Middlesbrough Council, Newcastle City Council, Redcar and Cleveland Borough Council and Stockton Borough Council (the Councils) have a statutory obligation to provide waste management services. The Councils have joined together to procure a contractor to design, build, operate and finance a new Energy Recovery Facility to be located in the Tees Valley, servicing the waste of 1.5m residents.
3. The Tees Valley Councils currently operate residual waste disposal services as a group under a single contract with SUEZ, which includes Redcar and Cleveland Borough Council, Hartlepool Borough Council, Stockton Borough Council and Middlesbrough Borough Council. Darlington Borough Council is part of the group but currently has its own separate waste treatment and disposal contract with Stonegrave Aggregates Ltd. Durham County Council and Newcastle City Council currently have their own separate residual waste disposal contracts with SUEZ.
4. All existing waste treatment/disposal contracts are due to expire in 2025/26 and therefore a new Residual Waste Treatment Contract must be procured in order to allow for the new facility to be constructed and fully commissioned in preparation for this. The service commencement date for the new facility is 1 April 2026.

5. The First Inter-Authority Agreement, which governs the procurement process up until entering into the Project Agreement (Financial Close), was executed by the seven Councils on 24 July 2020.
6. The procurement process is being undertaken in accordance with the Public Procurement Regulations 2015 (as amended). The OJEU Notice to commence the procurement process was issued on 24 July 2020.
7. Supported by Business Cases, the requirement is for a 450,000 tonne per annum Energy Recovery Facility (ERF) with Combined Heat and Power (CHP) capability to treat the Councils' municipal solid waste, this being the residual waste that has not been (or cannot be) recycled. This combined tonnage unlocked economies of scale which were attractive to the Councils (and to the market) and encouraged them to commence this procurement together.
8. The Tees Valley Energy Recovery Facility (TV-ERF) will be designed to have a minimum 40-year lifespan and the Contractor appointed following the conclusion of the procurement process will build, finance and operate the ERF. The initial contract term shall commence in 2022 (subject to entering into the Project Agreement with the successful bidder (Financial Close)). The Contractor shall construct the facility in preparation for the service commencement date on 1 April 2026, at which point the Contractor is required to accept and manage all contract waste. The Contract shall terminate on 31 March 2052 unless both parties agree the terms of a potential [eleven-year] extension that may run up until 2063.
9. The Contract will require the successful contractor to invest very significantly, likely to be several hundred million pounds, to construct the TV-ERF. The procurement process is still underway, but it is expected that the total value of the contract could be £2.1bn over the 29 years (plus 11 years) contract. The facility will revert to ownership by the Councils at the expiry of the Contract.
10. The TV-ERF will be a source of renewable electricity (up to 49.9MW) equivalent to powering over 60,000 homes. It may be possible in the future to export the renewable heat which is generated by the facility, to be provided to local businesses and other local users of heat, should a future Business Case demonstrate this to be feasible (technically and economically) and provide overall Value for Money for such an investment.
11. To encourage competition, a 22-acre brownfield site, owned by South Tees Development Corporation (STDC), was selected within the Teesworks regeneration site and this is mandated for use by the successful Contractor. Detailed ground condition surveys were undertaken. As part of the wider remediation strategy that is being undertaken by STDC, the entire development area has been remediated in preparation for the commencement of the development.
12. The development will create a few hundred jobs during the construction phase and up to 50 permanent positions during the services phase. The residues from the process (including metals and bottom ash) will be recovered or recycled, thereby directly displacing the requirement within industry for additional virgin materials that would



otherwise have been required. The facility will make a valuable contribution to the local circular economy.

13. Outline Planning Permission for the proposed development was issued by the Planning Authority in July 2020. Obtaining 'Full Planning Permission' for the development is a prerequisite for any of the three bidders to be appointed preferred bidder.
14. A Local Authority Special Purpose Vehicle (LA-SPV) a Limited Company is required to be formed by the seven Councils. It will be the Contracting entity representing the seven Councils (the Shareholders) and will enter into the Project Agreement with the successful Contractor and the lease with STDC (Teesworks) for the site.
15. The regulation and management of the LA SPV shall be governed by the Shareholders' Agreement (SHA). Each Council (Shareholder) will be required to formally enter into the Shareholders' Agreement approximately three months in advance of the Project Agreement being entered into with the successful Contractor (Financial Close).
16. The terms of the commercial arrangements between the seven Councils (the Shareholders) in relation to the LA SPV shall be defined and governed by the Waste Supply and Support Agreement (WSSA). The WSSA is required to be formally entered into by the seven Councils (Shareholders) in parallel with the LA SPV awarding the Contract and entering into the Project Agreement with the successful Contractor.
17. Each Council will be required to enter into two 'Council Guarantees'. The first will be to provide resilience to the LA SPV and to provide comfort to the Contractor that the LA SPV is fundamentally robust to meet its obligations under the Project Agreement. The second is to underwrite the LA SPV's obligations (rent etc.) under the 50- year lease for the site.
18. The target date for completion of the procurement process (including reaching Financial Close and entering into the Project Agreement) is 30 September 2022 based on the current procurement timescales. The Service Commencement Date will be 1 April 2026 and the Contractor will be required to accept and manage all contract waste from this date, even though the TV-ERF will not have completed its acceptance tests (contract waste will not be available to the contractor prior to 1 April 2026 and the acceptance tests can only be completed using contract waste).
19. Project governance continues to be provided by a Board made up of representatives of each of the seven Councils which normally meets on a monthly basis. The Board's terms of reference set out clear decision making and a voting structure and an escalation process in the case of any disputes. The Board has the delegated authority to proceed to financial close and enter into project documents (subject to approval through individual council governance processes).

## **Recommendation**

20. It is recommended that:
  - (a) Members approve the creation of a Local Authority Special Purpose Vehicle which will be the contracting body for the seven Councils with the successful contractor **and** approve the Assistant Director Community Services to be appointed as a Director of

the LA-SPV.

- (b) Members approve the Council entering into the Shareholders Agreement and delegate authority to the Group Director of Services to finalise the agreement, in consultation with the Cabinet Member for Local Services.
- (c) Members note that the Council will be entering into a service level agreement with Redcar and Cleveland Borough Council as the host Authority to provide support services to the LA-SPV.
- (d) Members approve entering into the Waste Supply and Support Agreement with the LA-SPV and delegate authority to the Group Director of Services to finalise the agreement, in consultation with the Cabinet Member for Local Services.
- (e) Members delegate authority to the LA-SPV to enter into contract with the successful contractor at financial close and to enter into a 50-year lease with South Tees Development Corporation (Teesworks) for the site.
- (f) Members delegate authority to the Group Director of Services, in consultation with the Cabinet Member for Local Services to enter into two guarantees the first for the LA-SPV, the second to underwrite the LA-SPVs obligations under the 50-year lease for the site.
- (g) Members delegate authority to the Group Director of Services, in consultation with the Cabinet Member for Local Services to finalise and agree the business plan for the LA-SPV.
- (h) Members delegate authority to the Group Director of Services, in consultation with the Cabinet Member for Local Services to finalise and agree an equalisation agreement between the Tees Valley Authorities for the transfer and bulk transportation of material to the TV-ERF.

## Reasons

21. The recommendations are supported by the following reasons:

- (a) The current waste contract has already been extended and cannot be extended further as this could potentially breach procurement regulations. The other Tees Valley Councils are in a similar position.
- (b) It is essential the Tees Valley Councils have in place a contract for the treatment of the residue of waste once recyclable materials have been removed. This will provide diversion of waste from landfill and maximise the recovery of energy and any residues.
- (c) The recommendations are the necessary steps to move forward the Tees Valley Energy Recovery Facility project.
- (d) By procuring the development of the Tees Valley Energy Recovery Facility together with other Councils, we will be able to ensure the construction of a purpose designed

modern facility within the region and be able to benefit from economies of scale.

**Dave Winstanley**  
**Group Director of Services**

**Background Papers**

- (i) Cabinet report 11 September 2018 Tees Valley Waste Management Strategy
- (ii) Cabinet report 8 January 2019 Tees Valley Waste Management Strategy
- (iii) Cabinet Report 5 November 2019 Tees Valley Joint Waste Management Contract
- (iv) Cabinet report 20 July 2020 Tees Valley Joint Waste Management Contract

Ian Thompson : Extension 6628  
CD

S17 Crime and Disorder	The content of this report does not impact on crime and disorder.
Health and Wellbeing	Effective and safe management of waste can have a positive impact on the health and wellbeing of residents.
Carbon Impact and Climate Change	The waste hierarchy determines that it is preferable, from an environmental perspective, to treat residual waste by generating energy from it instead of disposing of it in landfill. There will be emissions from the facility, but these will be minimised and strictly controlled in line with the conditions of the Environmental Permit, regulated by the Environment Agency. The potential development of a Carbon Capture Underground Storage facility, for the TV-ERF will allow CO <sub>2</sub> to be captured and stored through the infrastructure that is to be developed by the Northern Endurance Partnership as part of the East Coast Cluster. This will lead to the TV-ERF effectively being a net-negative carbon emitter.
Diversity	There is no impact on diversity as a result of this report.
Wards Affected	There is no impact on any Ward particularly as a result of this report.
Groups Affected	No particular group is affected as a result of this report.
Budget and Policy Framework	There is no impact on the Council's Budget and Policy Framework.
Key Decision	Yes, as it affects all Wards.
Urgent Decision	No
Council Plan	The vast majority of the Council's residual waste will be treated through TV-ERF, thereby avoiding landfill as the alternative to disposing of this waste. This supports the sustainability work and contributes to addressing climate change priorities.
Efficiency	There is no impact on the Council's Efficiency agenda as part of this report.
Impact on Looked After Children and Care Leavers	This report has no impact on Looked After Children or Care Leavers.

## MAIN REPORT

### Information and Analysis

22. A detailed project update, detailed description of the proposals and reasons for recommending are contained within the **CONFIDENTIAL REPORT**. **This item contains exempt information under Schedule 12A Local Government Act 1972 (as amended by the Local Government (Access to Information) (Variation) Order 2006) namely, (para 3)**

**information relating to the financial or business affairs of any particular person (including the authority holding that information).**

**Financial Implications**

23. The financial implications of the LA SPV will be set out within the Business Plan. The treatment costs of the residual waste that will be required to be paid to the Contractor and how these will be shared between the seven Councils will be defined within the Waste Supply and Support Agreement.
24. The seven Councils were required to undertake a procurement process due to their existing waste treatment contract arrangements due to expire in 2025/26. By procuring this contract together, economies of scale provide enhanced value for money for the Councils. The benefits of forming a LA SPV to be the contracting entity with the Contractor include:
- (a) **Separate legal entity** - The Project would sit on the balance sheet of the LA SPV, rather than the full Project sitting on an individual Council's balance sheet (with all assets and liabilities running through their accounts);
  - (b) **Shared ownership** - The Project assets (and liabilities) would be owned by the LA SPV, which in turn would be wholly owned by all of the Councils;
  - (c) **Transparency** - Each of the Councils would be entitled to appoint a Director to the Board, having visibility over the activities of the LA SPV and direct involvement in the decision-making process;
  - (d) **Flexibility** - The agreement would allow any future changes to the Councils' relationships to occur.

**Legal Implications**

25. The procurement of the TV-LRF and the formation of the LA-SPV as the contracting entity representing the Councils interests will have legal implications. The Shareholders Agreement and the Waste Supply and Support Agreement will bind the Councils together in a robust and legally enforceable commercial agreement.

**Environment, sustainability and climate change**

26. Through the development of the TV ERF, the vast majority of the Council's residual waste will be treated through the facility, thereby avoiding landfill as the alternative to disposing of this waste.
27. As part of the Outline Planning Application process (for the construction of an Energy Recovery Facility and associated development), an Environmental Impact Assessment was completed. This included detailed assessments including Traffic Assessments and an Air Quality Report being produced. A detailed assessment of pollutant emissions released from the facility as a result of the combustion of waste as well as pollutant emissions from road traffic associated with the operation of the facility has been undertaken. The air quality effects on human health are judged to be not significant. Consideration was also

given to the Local Nitrogen Dioxide Plan - the proposed development will not cause any exceedances of or delay compliance with the limit values. The Outline Planning Application was approved in July 2020.

28. The waste hierarchy determines that it is preferable, from an environmental perspective, to treat residual waste by generating energy from it instead of disposing of it in landfill.
29. In line with the objectives of the Government's *Net Zero Strategy* and the *Resources and Waste Strategy* (which aims for no more than 10% of municipal waste to end up in landfill by 2035, and no food waste to be landfilled by 2030), the development of the TV ERF, will ensure that the vast majority of the Council's residual waste will be treated through the Energy Recovery Facility to enable the processing of waste into valuable outputs, such as energy - thereby diverting the waste from landfill. As a result, the net CO<sub>2</sub> Equivalent emissions will be lower than had the waste been landfilled.
30. The Contractor will be required to demonstrate how they will reduce carbon emissions from the facility, year-on-year, over the duration of the contract. In addition, c. 90,000 tonnes per annum of bottom ash and metals will be produced by the facility. The bottom ash will be recycled into a secondary aggregate which will be used within the construction industry, thereby directly displacing virgin aggregates that would otherwise have been required; the metals extracted will be recovered and remanufactured.
31. There will be emissions from the facility, but these will be minimised and strictly controlled in line with the conditions of the Environmental Permit, regulated by the Environment Agency.
32. The potential development of a Carbon Capture Underground Storage facility, for the TV ERF will allow CO<sub>2</sub> to be captured and stored through the infrastructure that is to be developed by the Northern Endurance Partnership as part of the East Coast Cluster. This will lead to the TV ERF effectively being a net-negative carbon emitter.

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of the Local Government Act 1972.

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**CABINET  
5 APRIL 2022**

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## **DISPOSAL OF LAND AT 294 HAUGHTON ROAD, DARLINGTON**

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**Responsible Cabinet Member – Councillor Scott Durham  
Resources Portfolio**

**Responsible Director – Ian Williams, Chief Executive**

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### **SUMMARY REPORT**

#### **Purpose of the Report**

1. To authorise the disposal of land at 294 Haughton Road Darlington shown edged red on the attached plan (**Appendix 1**), subject to the granting of planning permission for development.

#### **Summary**

2. The Council owns land at Haughton Road totalling 0.13 ha (0.34 acres) which is surplus to Council requirements and available for development – currently grassed open land.
3. The landlord for the Wickes retail store adjacent to the subject land, have approached the Council about acquiring this site in order to increase the outdoor retail area for Wickes with access coming from the store not off Haughton Road.
4. Without Prejudice negotiations with the landlord have reached an agreed sales figure for the site, subject to a restricted use and subject to obtaining planning consent. These terms are set out in the attached PART III report (**Appendix 2**).

#### **Recommendations**

5. It is recommended that:
  - (a) The sale of 0.13ha (0.34 acres) of land at 294 Haughton Road, Darlington be approved in principle with the Chief Executive Office being authorised to negotiate full terms in consultation with the Cabinet member for the Resources Portfolio and with the terms being reported subsequently on the Schedule of Transactions, and;
  - (b) The AD Law and Governance be authorised to document sales accordingly.

## Reasons

6. The recommendations are supported by the following reasons:
  - (a) To achieve a capital receipt for the Council.
  - (b) To assist business development and job creation in Darlington.

**Ian Williams**  
**Chief Executive**

## Background Papers

No background papers were used in the preparation of this report.

Jane Sutcliffe : Extension 5746

S17 Crime and Disorder	This report has no implications for crime and disorder
Health and Well Being	There are no Health and Well Being Issues
Carbon Impact and Climate Change	There are no sustainability issues
Diversity	There are no diversity issues
Wards Affected	Haughton & Springfield
Groups Affected	Not Applicable
Budget and Policy Framework	This report does not represent a change to the budget and policy framework
Key Decision	This is not a key decision
Urgent Decision	This is not an urgent decision
Council Plan	There are no issues adversely affecting the Community Strategy
Efficiency	A capital receipt will help the Council's budget.
Impact on Looked After Children and Care Leavers	This report has no impact on Looked After Children or Care Leavers

## MAIN REPORT

### Information and Analysis

7. The Council owns 0.13ha (0.34 acres) of land at 294 Haughton Road shown on the attached plan at Appendix 1. The land is surplus to Council requirements and is currently grassed open land neighboured on both sides by residential dwellings.
8. The Council has been approached by the Landlord for Wickes DIY retail store, which lies adjacent to the subject land. They wish to purchase the land in order to expand the Wickes outdoor retail area. Terms are being negotiated subject to abnormal development costs and purchasers defining their exact requirements.

9. In order to give some flexibility and to be able to respond to the prospective purchaser in timely fashion it is recommended that the Chief Executive Officer be authorised to agree terms in consultation with the Cabinet member for the Resources Portfolio and complete the sale of this plot as appropriate subject to the grant of planning permission.

#### **Valuation Comment**

10. The price agreed in principle for the plot represents the best consideration available for the freehold interest in line with the provisions of S.123 of the Local Government Act 1972.

#### **Planning Comment**

11. It is considered that the development proposed for the land at 294 Haughton Road is acceptable for outdoor retail purposes. Planning permission will of course be required. Whilst some initial discussions have taken place with the landlord, prior to any application being submitted it is advised the matter be considered formally through the pre application process to ensure that a satisfactory form of development is secured. Any application would be assessed in the context of both National and Local Planning Policy.

#### **Financial Implications**

12. The site could be considered a windfall site and the sale will achieve a capital receipt for the Council.

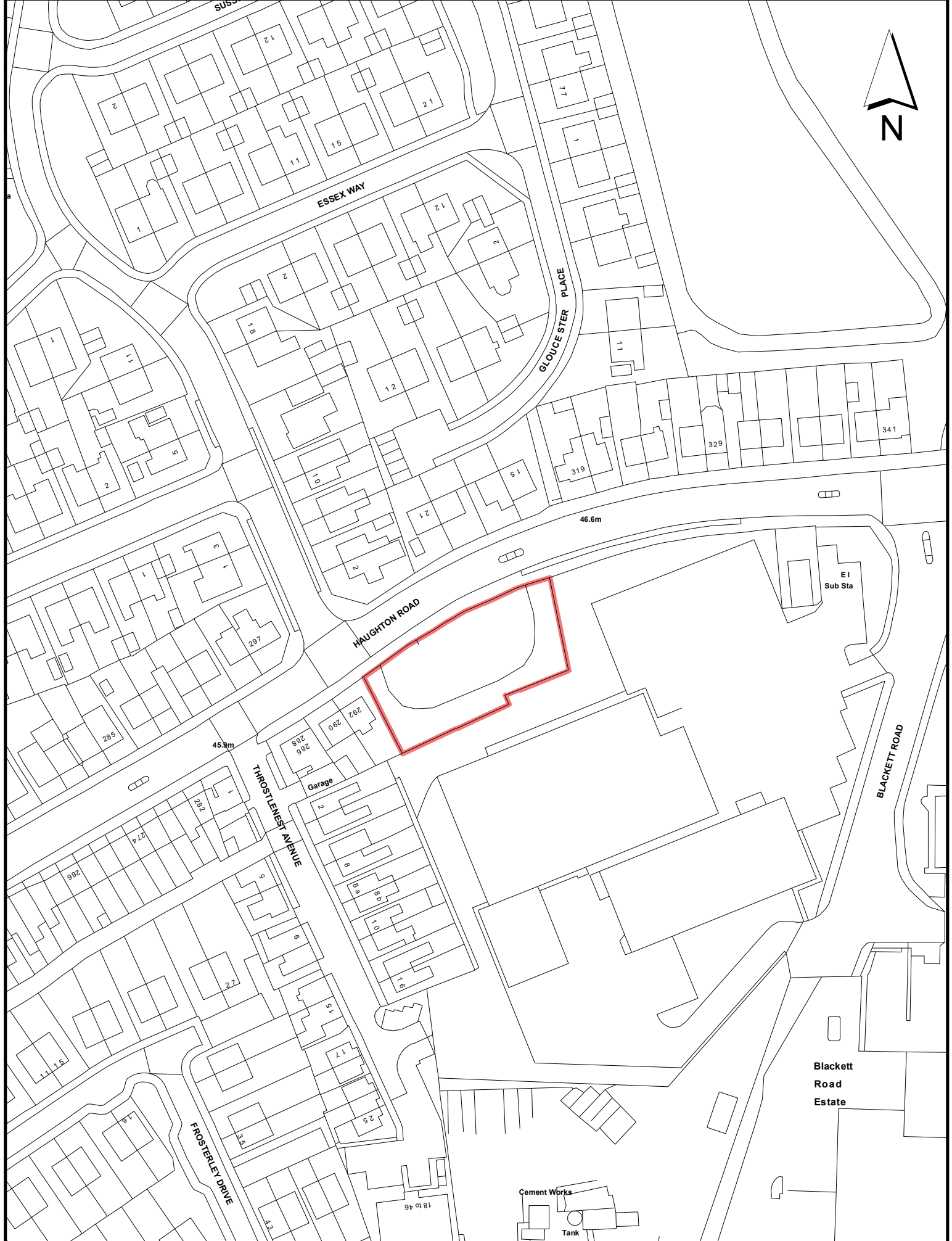
#### **Legal Implications**

13. The Council has the power to sell land pursuant to S.123 Local Government Act 1972 and the proposed sale complies with the requirements of that Act as a sale for full value.
14. Specific legal advice is not required but the Assistant Director, Law and Governance, will be required to document the sale of the property and deal with any issues arising from the legal process.

#### **Consultation**

15. External consultation will take place as part of the normal planning process. Internal consultation has raised no objections to the proposed sale.

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DARLINGTON BOROUGH COUNCIL  
 ECONOMIC GROWTH GROUP  
 ESTATES & PROPERTY,  
 TOWN HALL, FEETHAMS,  
 DARLINGTON,  
 Co. DURHAM, DL1 5QT

Project Title: **DBC OWNED LAND - OUTLINED IN RED - HMLR DU31196**  
 Drawing Title: **LAND AT HAUGHTON ROAD, DARLINGTON**

Scale: 1:1250	Ref: AT A4
Date: 24/03/22	Area: 0.335 Acres
Drawn: RMH	

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of the Local Government Act 1972.

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**CABINET**  
**5 APRIL 2022**

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**SCHEDULE OF TRANSACTIONS**

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**Responsible Cabinet Member – Councillor Scott Durham**  
**Resources Portfolio**

**Responsible Director – Ian Williams**  
**Chief Executive**

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**SUMMARY REPORT**

**Purpose of the Report**

1. To consider and to seek approval of the terms negotiated in respect of the Schedule of Transactions as set out below.

<b>TRANSACTION</b>	<b>PURPOSE OF TRANSACTION</b>	<b>MINUTE REF</b>
Lease – 40 Skinnergate, Darlington	Premises to be leased for initiative between Durham Constabulary, Durham Police and Crime Commissioner and the Council to provide a base for the Street Pastor Service	n/a
Acquisition – land at 26-28 Garden Street, Darlington	Acquisition of 418.2 sq ms of land as part of the Towns Fund project	C25(c)/Jul/19

**Summary**

2. It is necessary for Cabinet to approve terms negotiated by the officers within the Chief Executive and Economic Growth Group on behalf of the Council to enable contractually binding contracts to be completed. The Part III **Appendix 1** details the terms negotiated for consideration and approval.

**Recommendation**

3. It is recommended that the schedule (Appendix 1) be approved and the transactions completed on the terms and conditions detailed therein.

**Reasons**

4. Terms negotiated require approval by Cabinet before binding itself contractually to a transaction.

**Ian Williams**  
**Chief Executive**

### Background Papers

No background papers were used in the preparation of this report.

Guy Metcalfe : Extension 6725

S17 Crime and Disorder	This report has no implications for Crime & Disorder
Health and Wellbeing	There are no issues relating to Health & Wellbeing which this report needs to address
Carbon Impact and Climate Change	There are no impacts
Diversity	There are no issues relating to Diversity which this report needs to address
Wards Affected	The impact of the report on any individual Ward is considered to be minimal
Groups Affected	The impact of the report on any Group is considered to be minimal
Budget and Policy Framework	This report does not represent a change to the budget and policy framework
Key Decision	This is not a key decision
Urgent Decision	This is not an urgent decision
Council Plan	Growing the local Economy, encouraging new investment in the Borough and maximising employment opportunities
Efficiency	The terms set out in the Schedule of Transactions appended to this report are considered to be in the Council's best interest and ensure the Council's business is conducted efficiently
Impact on Looked After Children and Care Leavers	There are no issues in relation to Looked After Children and Care Leavers

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted

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