

**DECISIONS SHOULD NOT BE IMPLEMENTED BEFORE
MONDAY 19 SEPTEMBER 2022**

CABINET

Tuesday, 6 September 2022

PRESENT – Councillors Dulston (Chair), Durham, Keir, Marshall, K Nicholson, Renton and Tostevin

INVITEES – Councillors Curry, Harker and Snedker

APOLOGIES – Councillors Clarke and Wright

ALSO IN ATTENDANCE – Councillors Heslop, McCollom and Mrs H Scott

C172 DECLARATIONS OF INTEREST.

There were no declarations of interest reported at the meeting.

C173 TO HEAR RELEVANT REPRESENTATION (FROM MEMBERS AND THE GENERAL PUBLIC) ON ITEMS ON THIS CABINET AGENDA.

In respect of Minute C177(3) below, representations were made by members of the public in attendance at the meeting.

NOTE: Representations were heard during consideration of Minute C177(3) itself.

C174 TO APPROVE THE MINUTES OF THE MEETING OF THIS CABINET HELD ON TUESDAY, 5 JULY 2022.

Submitted - The Minutes (previously circulated) of the meeting of this Cabinet held on Tuesday 5 July 2022.

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

REASON – They represent an accurate record of the meeting.

C175 MATTERS REFERRED TO CABINET

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

C176 ISSUES ARISING FROM SCRUTINY COMMITTEE

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

C177 KEY DECISIONS:-

(1) SCHOOL TERM DATES 2024/25

The Leader of the Council 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 2024/25 and to publishing those arrangements by the end of September 2021.

The submitted report stated that following the circulation of the consultation papers to schools and governors and consultation with officers from Local Authorities across the North East and Yorkshire regions, a preferred term date model for the Academic Year 2024/25 was drafted; 42 schools within Darlington, including academies and free schools, and their respective Governing Bodies, were consulted on the proposed school term dates; and that 25 responses were received to that consultation, all of which expressed their preference for the dates in the model calendar.

RESOLVED – That the proposed school term dates for Darlington maintained schools for the Academic Year 2024/25, 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 1 July 2022.

(2) BUS SERVICES

The Cabinet Member with the Local Services Portfolio introduced the report of the Group Director of Services (previously circulated) providing Members with an update on bus services within Darlington; outlining the issues currently being experienced; the work being undertaken to resolve those issues; and requesting that consideration be given to the release of funding to continue supporting Service 16 for a further two years.

The submitted report stated that Covid had been a challenging time for all bus operators as patronage significantly reduced across the Country; bus operators still required financial support from Government to maintain services; the majority of bus services in Darlington and across the Tees Valley were operated on a commercial basis; as the Tees Valley Combined Authority (TVCA) was the Local Transport Authority, it had the associated powers and responsibility for public transport; partnerships had been in place in relation to improving public transport between the Local Authorities and Combined Authority; in the last twelve months a more formal partnership had been developed with TVCA, the local authorities and the operators known as an Enhanced Bus Partnership; and that whilst in its infancy the partnership would invest significantly in infrastructure and other measures to improve public transport in the coming years.

It was reported that the recovery of bus patronage in Darlington was not as strong as other parts of the Tees Valley; recovery of patronage was important as the fares generated supported the network and without those fares there could be an impact on future sustainability of some parts of the network; and that performance issues were impacting the recovery and needed to be addressed.

Particular references were made to the issues impacting on recovery and performance; the

actions that had been developed with Arriva to tackle those issues; and to Service 16, which was the single grant funded bus service operating under contract to the Council.

Concern was expressed at the meeting in respect of the bus services to rural areas of the Borough, in particular within the Hurworth Ward; the shortage of drivers and the current progress being made in terms of training new drivers; and the required subsidisation of Service 16.

Members also highlighted lost services in the North Road Ward; issues with services in the Red Hall and Lingfield Ward; and noted the wider issue of underfunding of the bus network across the country. The retention of the Pink Bus was welcomed. The Cabinet Member with the Local Services Portfolio responded thereon.

RESOLVED – (a) That the work being done with, and by bus operators, to improve reliability of bus services in Darlington, as detailed in the submitted report, be noted.

(b) That the use of £56,526 from the English National Concessionary Travel Scheme (ENCTS) budget and the ring-fenced grants for bus services from government to extend the Service 16 contract from October 2022 to September 2024, be approved.

REASON - To ensure that communities remain connected and able to access opportunities.

(3) CONSULTATION ON SKERNINGHAM GARDEN VILLAGE DESIGN CODE SUPPLEMENTARY PLANNING GUIDANCE (SPD)

The Cabinet Member with the Economy Portfolio introduced the report of the Chief Executive (previously circulated) updating Members on the progress of Skerningham Garden Village Design Code (also previously circulated) and requesting that consideration be given to commencing public consultation on the Design Code.

The submitted report stated that the adopted Darlington Local Plan 2016/36 (Darlington Local Plan) required the Council to progress with the creation and adoption of Supplementary Planning Policy Documents (SPD's) based on Design Codes for both Burtree and Skerningham Garden Communities; the Burtree Garden Village SPD had been adopted in 2022; work had been progressing on the completion of the Skerningham Garden Village Design Code; the Design Code would be formally consulted upon with the aim of adopting the Design Code as an SPD following the consultation feedback; and that once approved as the Council's SPD Policy, it would be used as material consideration in the planning application process, in accordance with the National Planning Policy Framework changes introduced in July 2021 and in particular the National Model Design.

It was reported that the development of the Skerningham Garden Village Design Code has been led independently by DesignNE who had carried out extensive public consultation in the completion of the document; the Design Code process for Skerningham Garden Village had been recognised by the Department of Levelling Up Housing and Communities (DLUHC) as a Second Phase Pathfinder; and the engagement process was a National Pilot which would set an approach to be adopted by other local authorities in England on the development of design codes across the country.

A number of questions were asked and points were made about future development at Skerningham. A number of questions were asked and points were made about the Design Code, including whether further work was needed on it before commencing a consultation. Concern was expressed at the meeting on the application of the 'Traffic Light' system proposed as part of the assessment process, with a request for more information on how the Design Quality Coding Checklist would work, what constitutes a pass or fail and a plea that greater clarity be provided in the Design Code document. How the Council would ensure that the Design Code would be adhered to was raised, and what consideration was being given to the financial perspective. The location of the new football stadium was raised. The Cabinet Member with the Economy Portfolio responded thereon.

RESOLVED – (a) That the progress and content of the Skerningham Garden Village Design Code, as appended to the submitted report, be noted.

(b) That the commencement of public consultation on the Skerningham Garden Village Design Code, be approved.

REASON - The Council must follow the National Planning Policy Framework (NPPF) and the Inspectors report to convert Skerningham Garden Village Design Code into a Supplementary Planning Policy Document as part of the Darlington Local Plan 2016/36.

NOTE: Pursuant to Minute C173 above, Members heard three verbal representations and one written representation from members of the public in consideration of this item.

C178 COMPLAINTS, COMPLIMENTS AND COMMENTS ANNUAL REPORTS 2021/22

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 2021/22 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 2021/22 a total number of 739 complaints had been received, an increase from 628 in 2020/21, but lower than the pre-pandemic levels of 838 in 2019/20 and 825 in 2018/19; 217 compliments had been received, a decrease from 309 in 2020/21, 292 in 2019/20 and 280 in 2018/19; and 127 comments had been received, a decrease from 178 in 2020/21, 168 in 2019/20 and 240 in 2018/19.

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 Children Social Care, Housing 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 ensure the Council is complying with the Children Act 1989 Representation Procedure (England) Regulations 2006, it complaints, compliments and comments procedures and to improve satisfaction with complaints handling.

C179 COMPLAINTS MADE TO LOCAL GOVERNMENT 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 on the outcome of cases which had been determined by the Local Government and Social Care Ombudsman (LGSCO) and the Housing Ombudsman Service (HOS) since consideration of the report by this Cabinet in December (Minute C77/Dec/21 refers).

The submitted report stated that between 1 April 2021 and 31 March 2022 there had been 16 cases that were subject to decision by the LGSCO and two cases by the HOS; five upheld Maladministration Injustice decisions from the LGSCO and two service failures from the HOS; and that organisational learning identified as a result of those complaints should ensure that there was no re-occurrence.

It was reported that the LGSCO's Annual Review Letter 2022 (also previously circulated), focused on three key statistics and compared the Council's performance against that of other Unitary Councils and stated that although 100 per cent of their recommendations were implemented, the LGSCO did note that there was again delay in implementing their recommendations in two cases and the Council were asked to consider how it would make improvements to reduce delays in the remedy process.

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 HOS 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.

C180 HOUSING SERVICES ANTI-SOCIAL BEHAVIOUR POLICY

The Cabinet Member with the Health and Housing Portfolio introduced the report of the Group Director of Operations (previously circulated) requesting that consideration be given to the Housing Services Anti-Social Behaviour Policy 2022/26 (also previously circulated).

The submitted report stated that this Council provided over 5,300 high quality homes for local residents; were committed to ensuring that all tenants enjoyed their right to a safe home and community; and that the Housing Services Anti-Social Behaviour Policy 2022/26 set out how reports of Anti-Social Behaviour (ASB) and hate crime would be dealt with effectively and promptly, taking appropriate, swift, proportionate action, including legal action, when necessary.

Particular references were made to the vision and aims of the policy; the requirements of the

Regulator of Social Housing; enforcement of the policy; performance of the Tenancy Enforcement Officers in 2011/22; and the outcome of the consultation undertaken on the Policy with the Tenants Panel and the Health and Housing Scrutiny Committee.

Discussion ensued on the Housing Services Anti-Social Behaviour Policy 2022/26, with Members welcoming the clarity around unacceptable behaviour. Greater clarification was requested around Public Disorder convictions that were not directly related to the property concerned. Members were also informed of proposals to increase capacity within the Housing Enforcement Team. The Cabinet Member with the Health and Housing Portfolio responded thereon.

RESOLVED – (a) That the report be noted.

(b) That the Housing Services Anti-Social Behaviour Policy 2022/26, as appended to the submitted report, be approved.

REASON - The Social Housing Regulator's Consumer Standards places a duty on social housing landlords to publish a policy on how they work with relevant partners to prevent and tackle ASB in areas where they own properties.

C181 MUSEUM ACCREDITATION POLICIES

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 Head of Steam Forward Plan 2022/24, the Collections Management Framework 2022/27 and Access Policy and Plan 2022/24 (all also previously circulated) ahead of submission to Arts Council England for the re-accreditation of Museum status.

The submitted report stated that the museum was due to submit an Accreditation Return in 2023/24, whilst the museum was undergoing redevelopment, and that the return must include commitments to standards, quality, accessibility and forward planning. To meet those commitments, the following documents were produced, namely:- the Head of Steam Forward Plan 2022/24, which outlined the vision for the museum service for the next two years; the Head of Steam Collections Management Framework 2022/27, which included the museum's policy for developing its collections, its documentation policy and its care and conservation policy; and the Head of Steam Access Policy and Plan 2022/24, which outlined the museum's commitment is to accessibility for all visitors.

RESOLVED - That the Head of Steam Forward Plan 2022/24, Head of Steam Collections Management Framework 2022/27 and Head of Steam Access Policy and Plan 2022/24, all as appended to the submitted report, be approved, in preparation for submission to the Arts Council England for Museum Accreditation.

REASONS - (a) To prove effective and professional management of Darlington's Museum Service so that the museum remains an accredited museum and entitled to future support from the Arts Council England (Central Government Body).

(b) To be eligible for future funding from external bodies, e.g. Arts Council England, English Heritage and the Heritage Lottery Fund.

(c) To be eligible for future loans from other museums, e.g. The National Railway Museum.

(d) To ensure that the museum remains registered and complies with the standards and ethics as set out by the Museums Association.

C182 RESTORATION OF LOCOMOTION NO 1 REPLICA - RELEASE OF CAPITAL

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 release of capital funding for the restoration of the Locomotion No1 Replica.

The submitted report stated that, following the acquisition of the Locomotion No1 Replica from Beamish, the assessment of the condition and the work required to bring it back into full operational order in time for the 2025 bicentenary of the Stockton and Darlington Railway (S&DR) had now been completed; outlined the works required, including the building of a number of chaldron waggons and coaches for people to ride in; and the funding required to enable the works to progress.

Questions were raised at the meeting in relation to the exact costs in terms of the restoration of the Locomotion No. 1 Replica; clarification around what the £0.496m would be used for; and whether there was any scope to recoup monies from activities retrospectively.

RESOLVED - That capital of £0.496m, as detailed in the submitted report, to carry out the restoration of the Locomotion No1 Replica and associated chaldron waggons and coach, as detailed in the submitted report, be approved.

REASON - To restore the Locomotion No 1 Replica ready for the bicentenary of the Stockton and Darlington Railway (S&DR).

C183 THE TREATMENT OF WAR PENSIONS IN THE CALCULATION OF HOUSING BENEFIT

The Cabinet Member with the Resources Portfolio introduced the report of the Group Director of Operations (previously circulated) requesting that consideration be given to reconfirming that war pensions should be fully disregarded as income when calculating entitlement to Housing Benefit.

The submitted report stated that legislation allowed discretion for Council's to disregard up to 100 per cent of War Disablement Pensions and War Widow's Pensions in the calculation of Housing Benefit entitlement (referred to as the 'local scheme'); this Council, had fully disregarded war pensions in the calculation of Housing Benefit, since the Social Security Administration Act was introduced in 1992; and outlined the financial and legal implications.

RESOLVED – (a) That the contents of the report be noted.

(b) That the war pensions, as defined in paragraph 18 of the submitted report, be fully disregarded as income when calculating entitlement to Housing Benefit.

REASON - The Social Security Administration Act 1992 requires the Council to formally

adopt any modification of the Housing Benefit scheme where the whole or part of any war pension is disregarded.

C184 REGULATION OF INVESTIGATORY POWERS ACT 2000 (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; developments that have taken place since the last report to Cabinet in March 2022 (Minute C115/Mar/22 refers); and requesting that consideration be given to the Regulation of Investigatory Policy (also previously circulated).

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.

It was reported that Paragraph 4.47 of the Home Office, Covert Surveillance and Property Interference, Revised Code of Practice, August 2018, required each local authority to set the RIPA Policy at least once a year and that a number of minor amendments had been made to the policy since it was last approved in March 2021 (Minute C112/Mar/21 refers).

RESOLVED – (a) That the Regulation of Investigatory Powers Policy, as appended to the submitted report, be approved..

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

REASONS – (a) As stated in the Home Office Code of Practice, the RIPA should be approved by Members on an annual basis.

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

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

C185 PROJECT POSITION STATEMENT AND CAPITAL PROGRAMME MONITORING 2022/23 - QUARTER 1

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 £297.497M against an approved programme of £298.262M; 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 2022/23 to 2025/26; the Council had 48 live projects, with an overall projected outturn value of £186.911M, 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.

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 21 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.

C186 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.

It was reported that the fund provision of £50M was being utilised as envisaged to include Joint Venture (JV) vehicles and economic regeneration initiatives; the fund had been used for 14 schemes to date, five of which had been recycled back into the fund; the fund had a commitment against it of £33.48M, leaving a balance of £16.52M uncommitted; returns on joint ventures were anticipated to generate over £6M in pre-tax profit to assist the Medium Term Financial Plan; and that 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.

C187 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 appendix to 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.

C188 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 9 SEPTEMBER 2022**