

**DECISIONS SHOULD NOT BE IMPLEMENTED BEFORE
MONDAY 18 SEPTEMBER 2023**

CABINET

Tuesday, 5 September 2023

PRESENT – Councillors Harker (Chair), Curry, McCollom, McEwan, Porter, Roche and Wallis

INVITEES – Councillors Dulston and Snedker

APOLOGIES – Councillors Dr. Riley

ALSO IN ATTENDANCE – Councillors Henderson, Holroyd, Lawley and Mammolotti

C31 DECLARATIONS OF INTEREST.

There were no declarations of interest reported at the meeting.

C32 TO HEAR RELEVANT REPRESENTATION (FROM MEMBERS AND THE GENERAL PUBLIC) ON ITEMS ON THIS CABINET AGENDA.

In respect of Minute C36(3) below, representations were made by a Member and members of the public in attendance at the meeting.

C33 TO APPROVE THE MINUTES OF THE MEETING OF THIS CABINET HELD ON 3 JULY AND 11 AUGUST 2023

Submitted - The Minutes (previously circulated) of the meeting of this Cabinet held on 3 July and 11 August 2023.

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

REASON – They represent an accurate record of the meeting.

C34 MATTERS REFERRED TO CABINET

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

C35 ISSUES ARISING FROM SCRUTINY COMMITTEE

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

C36 KEY DECISIONS:-

(1) SCHOOL TERM DATES 2025/26

The Cabinet Member with the Children and Young People Portfolio introduced the report of

the Group Director of People (previously circulated) requesting that consideration be given to setting school term date arrangements (also previously circulated) for Darlington maintained schools for the Academic Year 2025/26 and to publishing those arrangements by the end of September 2023.

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 2025/26 was drafted; local authorities set the term dates for maintained schools and nurseries; the majority of academies and voluntary aided schools continued to follow the local authority published dates; 42 schools within Darlington, including academies and free schools, and their respective Governing Bodies, were consulted on the proposed school term dates; and that 33 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 2025/26, 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 7 July 2023.

(2) (URGENT ITEM) DOLPHIN CENTRE REPAIRS

The Cabinet Member with the Health and Housing Portfolio introduced the report of the Group Director of Services (previously circulated) requesting that consideration be given to including further works to repair the toddler pool area and a retaining wall as part of the current Dolphin Centre Pool repairs project.

The submitted report stated that at the Special Cabinet meeting held on 11 August 2023 approval was given to progressing areas of work in the vicinity of the changing area; in securing the urgent approval from Cabinet the benefits secured from continuity of the current project were being progressed and the acceleration was advantageous from a financial, operational and customer perspective; and that the further areas had been identified that would also need to be considered on a similar basis, once the outcome of investigations had been completed.

It was reported that investigations into the toddler pool area and the retaining wall had been undertaken and a number of essential repairs had been identified; the benefits of undertaking those works as part of the current project would allow works to be undertaken in parallel, secure benefits from the continuity of the project and be advantageous from a financial, operational perspective; and that the approval of the further works would ensure as much of the works could be undertaken in parallel in as shorter period as possible to minimise the impact on customers and provide certainty going forward.

RESOLVED – (a) That the additional work, as identified in the submitted report, be approved.

(b) That a report be forwarded to Council to vary the Capital Budget for 2023/24 by £400,000 and release the capital to accelerate the repairs and undertake them as an

extension to the current project.

REASONS – (a) To allow all the essential works to be carried out, meaning the toddler pool will not have to be closed for repairs in 18 months and that the toddler pool can be reopened at the earliest opportunity.

(b) To address structural issues within the base of the retaining wall in the plant room.

(c) Undertaking all the works that have been identified as needing repair within two years as part of the current project could save cost increases arising from construction inflation and lost income of up to £200,000 when compared to re-starting a project in 18 months' time.

(3) SKERNINGHAM GARDEN VILLAGE DESIGN CODE SUPPLEMENTARY PLANNING DOCUMENT (SPD)

The Cabinet Member with the Economy Portfolio introduced the report of the Chief Executive (previously circulated) updating Cabinet on the progress of Skerningham Garden Village Design Code Supplementary Planning Document (SPD) and requesting that consideration be given to the Draft SPD (also previously circulated) with the suggested amendments.

The submitted report stated that a requirement of the adopted Darlington Local Plan 2016/36 was for the Council to progress with the creation and adoption of a SPD based on a Design Code for Skerningham Garden Village; after the decision of Cabinet on 13 December 2022 (Minute C233/Dec/22 refers), the Skerningham Garden Village Design Code Draft SPD was formally consulted upon; 102 comments were received from 94 contributing consultees; two consultation processes had been undertaken which ensured stakeholders had had the opportunity to comment on the draft SPD; those comments were welcomed; and that the Design Code had been amended based on the comments received.

It was reported that the matter had been considered by Cabinet on 3 July 2023 (Minute C18/Jul/23) and that a further two amendments were suggested, which had been incorporated into the final Design Code; after the Cabinet Meeting on 3 July, the Council received correspondence which suggested the Design Code as previously recommended was in conflict with the Local Plan; after considering this further amendments were suggested to remove any perceived conflict; and that those amendments related mainly to the Bishopton Lane character area and the potential use of the land.

A Member and members of the public in attendance at the meeting addressed Cabinet on a number of issues, including the alignment of the relief road and whether it could be realigned to avoid the woodland; Barmpton Lane access road; the deletion of the golf club land from the plan and the impact of the loss of housing from that area on the remaining site; the design of the properties; whether the Design Code was a sound document which could be adopted by the Council and would be adhered to by the developers and builders of Skerningham Garden Village; and the importance of the document in the planning and master planning process. The Leader and the Cabinet Member with the Economy Portfolio responded thereon.

RESOLVED – (a) That the comments received from the consultation and the subsequent revisions that have been made to the Skerningham Garden Village Design Code SPD as

illustrated in Appendix 1 and Appendix 2 of the submitted report, be noted.

(b) That the Skertingham Garden Village Design Code SPD, as detailed in Appendix 3 of the submitted report, be approved, and be forwarded to Council at its meeting scheduled for 28 September 2023, for further consideration and a decision to be made on its adoption.

REASON - The approval of the document as Council Planning policy has gone through an extended consultation process with the wider public and statutory consultees. The document is fit and effective to be adopted as Council Policy complementing the Darlington Local Plan 2016/36.

C37 DISABLED FACILITIES GRANT 2023/24

The Cabinet Member with the Adults Portfolio introduced the report of the Group Director of People (previously circulated) advising Members of the capital resources available for Disabled Facilities Grants (DFG's) during 2023/24 and requesting that consideration be given to the release of those resources, to be utilised in accordance with this Council's Disabled Facilities Grant and Regulatory Reform Order Policy 2022/25.

The submitted report stated that DFG's assisted people to live independently by helping to fund suitable adaptations to their properties; the grants were means tested and were available to owner-occupiers, tenants of private rented properties and Housing Association tenants; and DFG's were governed by housing legislation and had set conditions for payment, within those regulations.

It was reported that Durham County Council Home Improvement Agency service had been commissioned to provide support to individuals applying for a DFG and that the service included the completion of grant applications; seeking quotes for necessary works; selection of a suitable contractor; oversight of the works up to completion and payment of the grant; and to source charitable funding where the client was required to make a contribution to the costs of the work but was unable to do so.

RESOLVED – (a) That the allocation of £1,063,345, as detailed in the submitted report, to the Council to use for Disabled Facilities Grant adaptations in 2023/24, be noted.

(b) That the capital funding to enable the funding to be allocated in accordance with this Council's Disabled Facilities Grant and Regulatory Reform Order Policy 2022/25, be released.

REASON – To enable the adaptations for those individuals who are eligible to receive a DFT for 2022/23 to proceed.

C38 CLIMATE CHANGE UPDATE 2022/23

The Cabinet Member with the Economy Portfolio introduced the report of the Chief Executive (previously circulated) providing Members with an update on progress towards the Council's net zero target for the financial year 2022/23.

The submitted report stated that following the Council's Climate Emergency Declaration in

July 2019 (Minute 19/Jul/19 refers), a Sustainability and Climate Change Lead Officer had been appointed; a Climate Change Strategy and an action plan had been produced and adopted; milestones had been developed and used by the Climate Change Officer to monitor progress; and that a trajectory of 30 per cent reduction in the Council's emission every five years had been agreed. The Council's emissions for 2022/23 were 6,461 tonnes/CO₂, which were made up of the energy use in council buildings; business mileage; fleet emissions; and streetlighting and signs. The emissions from the supply chain were not currently measured but a report from an external consultant into supply chain emissions had been commissioned.

It was reported that the Sustainable Darlington webpage and Sustainability and Climate Change intranet page had been updated and would be used to share information with residents and staff and that it was planned to include a youth tab on the Sustainable Darlington page, working with young people to produce content.

Particular reference was made to the amendment to the climate change declaration to bring the target forward by ten years to 2040 and how it planned to reach that target.

RESOLVED – That the report be noted and forwarded to Full Council.

REASON - With increasing public pressure to take action on climate change, we run the risk of significant damage to our reputation if we do not deliver on our stated commitment to dealing with the Council's contribution to climate change.

C39 DELIVERY OF NEW HOMES AT NEASHAM ROAD - SITE A

The Cabinet Member with the Resources Portfolio introduced the report of the Chief Executive (previously circulated) requesting that consideration be given to this Council paying the Neasham Road Joint Venture (JV) Ltd an uplift in building costs impacting on 17 dwellings, as a result of revisions to Part L and Part F of the Building Regulations.

The submitted report stated that approval had been given to establish a new Joint Venture Company (JVC) between Esh Homes Ltd and the Council (Minute C29/Sep/20 refers); the Neasham Road JV Ltd, had provided the infrastructure to open up the site at Neasham Road and build and sell homes on parts of the site; and that the development of 155 new homes on Site A was well underway.

It was reported that at the time contracts were completed with the Neasham Road JV Ltd to start on site building out Site A, there were future changes anticipated in respect of Part L and Part F of the Building Regulations; it was not clear as to when those changes would be introduced and what the financial implication would be; if an allowance had been made for those anticipated costs at the time of entering into contracts, the deductions would have been significant; and that mitigation measures had subsequently been undertaken by the Neasham Road JV Ltd to minimise the liability.

Reference was made at the meeting to whether a review of other Joint Ventures had been undertaken in respect of the changes to Part L and Part F of the Building Regulations and whether the retail price of the 17 properties would be amended. The Cabinet Member with the Resources Portfolio responded thereon.

RESOLVED - That the payment to Neasham Road Joint Venture Limited of the uplift in building costs in respect of Part L and Part F Building Regulations, as detailed in Appendix 2 of the submitted report, be approved.

REASON - To ensure that Neasham Road JV Ltd are reimbursed for the costs associated with complying with Building Regulations.

C40 COMPLAINTS, COMPLIMENTS AND COMMENTS ANNUAL REPORTS 2022/23

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 2022/23 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 2022/23 a total number of 709 complaints had been received, a decrease from 739 in 2021/22, an increase from 629 in 2020/21, but lower than the pre-pandemic levels of 838 in 2019/20; 202 compliments had been received, a decrease from 217 in 2020/21, 309 in 2020/21 and 292 in 2019/20; and 112 comments had been received, a decrease from 127 in 2021/22, 178 in 2020/21 and 168 in 2019/20.

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

(b) That the further recommendations, as detailed in the Corporate, Children Social Care and Housing 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.

(b) To ensure the Council was:

- (i) complying with the Children Act 1989 Representation Procedure (England) Regulations 2006;
- (ii) complying with the Housing Ombudsman's Complaint Handling Code;
- (iii) complying with the Corporate Complaints, Compliments and Comments Procedure;
- (iv) complying with the Housing Complaints, Compliments and Comments Procedure; and
- (v) to improve satisfaction with complaints handling.

C41 COMPLAINTS MADE TO LOCAL GOVERNMENT OMBUDSMAN

The Cabinet Member with the Resources Portfolio introduced the report of the Group Director of Operations (previously circulated) providing an update of the outcome of cases which have been determined by the Local Government and Social Care Ombudsman (LGSCO) and the Housing Ombudsman Service (HOS) since the preparation of the previous report to Cabinet on 6 December 2022 (Minute C221/Dec/22 refers).

The submitted report set out in abbreviated form the decisions reached by the LGSCO and the HOS between 1 April 2022 and 30 September 2022 and outlined the actions taken as a result of those complaints.

It was reported that the LGSCO's Annual Review Letter 202/232 (also previously circulated), focused on three key areas to help assess the Council's commitment to putting things right.

RESOLVED – That 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 detail in the submitted report, is required.

C42 ANNUAL REVIEW OF THE INVESTMENT FUND

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 returns on investment; the fund provision of £50m was being utilised as envisaged in the original reports to Council to include Joint Venture (JV) vehicles and economic regeneration initiatives; returns on JV's were anticipated to be over £6.7m; three of the JV schemes had completed with the investment fully repaid and recycled back into the fund; and that the Investment Fund was currently funding ten schemes.

Particular references were made at the meeting to the repayment of the loan by Market Asset Management (MAM) Ltd.; bringing the Market back into Council ownership; and requesting that consideration be given to improving Social Value in JV developments. The Cabinet Member with the Resources Portfolio and the Economy Portfolio responded thereon.

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 income for the Council.

C43 REGULATORY 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 and developments that have taken place since the last report to Cabinet in March 2023 (Minute C270/Mar/23 refers) and requesting that consideration be given to the RIPA 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. It had last been reviewed in September 2022 (Minute C184/Sep/22 refers).

RESOLVED – (a) That the issues raised, as detailed in the submitted report, be noted.

(b) That the Regulatory of Investigatory Powers Policy, as appended to the submitted report, be approved.

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

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

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

C44 PROJECT POSITION STATEMENT AND CAPITAL PROGRAMME MONITORING - QUARTER ONE 2023/24

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 £296.406m against an approved programme of £296.697m; 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 2023/24 to 2026/27; the Council had 43 live projects, with an overall projected outturn value of £167.347m, 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.

In presenting the report, the Cabinet Member with the Resources Portfolio stated that a review had been undertaken on the West Cemetery Development project which was overspent and outlined the lessons learnt.

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 23 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.

C45 REVENUE BUDGET MONITORING 2023/24 - QUARTER ONE

The Cabinet Member with the Resources Portfolio introduced the report of the Group Director of Operations (previously circulated) providing an early forecast of the 2023/24 revenue budget outturn as part of the Council's continuous financial management process.

The submitted report stated that it was the first revenue budget management report to Cabinet for 2023/24 and that the latest projections showed an overall decline of £0.773m on the 2023/27 Medium Term Financial Plan, which was due to £2.167m of departmental pressures, offset by £1.2m of resources returned to reserves; £0.509m of additional balances following the 2022/23 outturn; and a decline in corporate reserves of £0.315m.

Particular reference was made at the meeting to when the Medium Term Financial Plan would be reviewed. The Leader and the Cabinet Member with the Resources Portfolio responded thereon.

RESOLVED - (a) That the forecast revenue outturn for 2023/24, as detailed in the submitted report, be noted.

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

REASONS - (a) To continue effective management of resources.

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

C46 TREASURY MANAGEMENT ANNUAL REPORT AND OUTTURN PRUDENTIAL INDICATORS 2022/23

The Cabinet Member with the Resources Portfolio introduced the report of the Group Director of Operations (previously circulated) providing important information regarding the regulation and management of the Council's borrowing, investments and cash-flow; treasury activity for 2022/23; and seeking approval of the Prudential Indicator results for 2022/23 in accordance with the Prudential Code.

It was reported that the financial year 2022/23 was yet another unprecedented year with regard to treasury management due to a number of issues including the invasion of Ukraine, the cost of living increases, and inflation; the cost of borrowing had been rising steadily throughout 2022/23; although the returns for cash investments had increased to higher interest rates they still remained below the cost of borrowing; and that the Council had complied with its legislative and regulatory requirements.

The submitted report summarised the capital expenditure and financing for 2022/23; the Council's overall borrowing need; the Treasury position as at 31 March 2023; prudential indicators and compliance issues; the economic background for 2022/23 treasury management activity during 2022/23; investment position; and performance and risk benchmarking.

It was also reported that the Council's treasury management activity during 2022/23 had been carried out in accordance with the Council policy and within legal limits; financing costs had been reduced during the year; and a saving of £0.194m had been achieved from the original Medium-Term Financial Plan.

RESOLVED - (a) That the outturn 2022/23 Prudential Indicators, as detailed within the submitted report and in Appendix 1, be noted.

(b) That the Treasury Management Annual Report for 2022/23, as detailed in the submitted report, be noted.

(c) That the report be forwarded to Council, in order for the 2022/23 Prudential Indicators to be noted.

REASONS - (a) In order to comply with the Prudential Code for Capital Finance in Local Authorities.

(b) To inform Members of the Performance of the Treasury Management function.

(c) To comply with the requirements of the Local Government Act 2003.

C47 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.

C48 MEMBERSHIP CHANGES - TO CONSIDER ANY MEMBERSHIP CHANGES TO OTHER BODIES TO WHICH CABINET APPOINTS.

RESOLVED – (a) That the Chair of the Health and Well Being Board be appointed to the Integrated Care Partnership Tees Valley and that Councillor Layton be appointed as the named substitute.

(b) That the Cabinet Member with the Children and Young People's Portfolio be appointed to the Darlington Young People's Engagement and Justice Service Board and that Councillor Kane be appointed as the named substitute.

C49 TO CONSIDER THE EXCLUSION OF THE PUBLIC AND PRESS :-

**DECISIONS DATED –
FRIDAY 8 SEPTEMBER 2023**