

**DECISIONS SHOULD NOT BE IMPLEMENTED BEFORE
MONDAY, 20 OCTOBER 2025**

CABINET
Tuesday, 7 October 2025

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

APOLOGIES – Councillors Wallis.

INVITEES - Councillors Snedker and Dulston.

C21 DECLARATIONS OF INTEREST.

There were no declarations of interest reported at the meeting.

**C22 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.

**C23 TO APPROVE THE MINUTES OF THE MEETING OF THIS CABINET HELD ON 9 SEPTEMBER
2025**

Submitted - The Minutes (previously circulated) of the meeting of this Cabinet held on 9 September 2025.

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

REASON – They represent an accurate record of the meeting.

C24 MATTERS REFERRED TO CABINET

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

C25 ISSUES ARISING FROM SCRUTINY COMMITTEE

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

C26 KEY DECISIONS:-

C27 PROCUREMENT PLAN UPDATE

The Cabinet Member with the Resources Portfolio introduced the report (previously circulated) of the Executive Director of Resources and Governance for Cabinet to consider and approve the assessment of contracts that are considered to be strategic or non-strategic.

The report presented the outcomes of procurements previously designated as Strategic, the

decisions taken by the Procurement Board to waive the Contract Procedure Rules and an update concerning Social Value.

RESOLVED - 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) The contract award decisions for the contracts designated as non-strategic be delegated to the appropriate Directorate as listed in the plan at Appendix 1.
- iii) The contract award decisions for the contracts designated as strategic, as listed in the plan at Appendix 1, be delegated to the Procurement Board to approve and will be reported back to Cabinet.

(b) that Members note the contents of this report in respect of the update of strategic procurements, Procurement Board waiver decisions, and Social Value.

REASON - The recommendations are supported by the following reasons for strategic and non-strategic procurements:-

- (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.

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.

C28 TEES VALLEY ENERGY RECOVERY FACILITY (TVERF) - UPDATE

The Cabinet Member with the Local Services Portfolio introduced the report (previously

circulated) of the Executive Director of Environment, Highways and Community Services to seek supplementary approval and delegations to support the previous Cabinet decisions on the project.

The report explained that the five Tees Valley Authorities, Durham County Council and Newcastle City Council are working collaboratively to procure a contractor to design, build, operate and finance a new Energy Recovery Facility (ERF) located in the Tees Valley.

It was illustrated that a governance framework had been developed to manage the development and operation of the project. Cabinet had previously approved the progression of the project and the creation of a Special Purpose Vehicle (SPV) which will be a limited company owned by all seven councils. The SPV will enter into the contract with the preferred bidder, Viridor. The SPV will manage the contract throughout the design, build, operation and financing of the ERF.

The report explained how Cabinet had previously entered into an agreement with the Shareholders and the Waste Supply and Support with the SPV. Cabinet had also agreed that the SPV would enter into a contract with the successful bidder at a financial close and enter a 50 year lease with the South Tees Development Corporation (Teesworks) for the TVERF Site.

The report also clarified that as part of the previous approvals, Cabinet delegated authority to the Group Director of Services in consultation with the Cabinet Member for Local Services for them to enter into two guarantees: the first for the SPV and the second to underwrite the SPV's obligations under the 50-year-old lease for the site. The report also stated that delegated authority was approved to finalise and agree the business plan for the SPV and agree an equalisation agreement between the Tees Valley Authorities for the transfer and bulk transportation of material to the TVERF.

It was explained that project has a team of external specialist advisors, the legal advisors producing the contract documentation had advanced the development of the documentation and governance framework; there is a suit of associated agreements and ancillary documents that are required. The report seeks to supplement previous approvals, make appointments to the SPV and seek approval and delegations for the ancillary documents developed as part of the governance framework.

Reference was made at the meeting around whether there would be opportunity for Scrutiny to explore the Tees Valley Energy Recovery Facility further.

RESOLVED - It is recommended that the following appointments to the SPV are approved:

- (a) The Assistant Director of Environment and Community Safety as Darlington Borough Council's Director on the Board of the SPV and to authorise them, and any successors, to take all decisions as set out in the SPV and associated documents for the good governance of the SPV and TVERF and to authorise them to appoint an alternate representative to act as their substitute or deputy.
- (b) The Executive Director of Environment, Highways & Community Services, and any successors, as the Shareholder Representative and to authorise that Shareholder Representative to appoint an alternate representative to act as their substitute or

deputy.

It is recommended that the following authorisations in relation to the SPV are approved:

- (d) authorise the Shareholder Representative and their alternate to make decisions under the Shareholder Agreement, the articles of association, including the making of shareholder resolutions on behalf of the Council.
- (e) Endorse the Council being a shareholder, approve and adopt the Articles of Association and the Council subscribing for shares in the SPV.
- (f) Delegate authority to the Assistant Director of Environmental Services and Community Safety in consultation with the Executive Director of Environment, Highways & Community Services, Chief Finance Officer and Cabinet Member for Local Services to enter into all other necessary agreements or legal documents on behalf of the Council or the SPV.

It is recommended that the following authorisations are approved

- (a) To delegate authority to the Assistant Director of Environmental Services and Community Safety in consultation with the Executive Director of Environment, Highways & Community Services and Cabinet Member for Local Services to enter the Council into the following agreements
 - (i) The Shareholder Agreement
 - (ii) The Second Inter Authority Agreement
- (b) To delegate authority to the Assistant Director of Law and Governance to sign the Local Government Contracts Act (LGCA) Certificate.
- (c) To delegate authority to the Assistant Director of Environmental Services and Community Safety in consultation with the Executive Director of Environment, Highways & Community Services and Cabinet Member for Local Services to enter into the following agreements on behalf of the SPV.
 - (i) Shareholders Agreement and associated documents
 - (ii) Service Level Agreement
 - (iii) Secondment Agreement
 - (iv) Council Guarantee of the Project Agreement
 - (v) Novation of the Option Agreement
 - (vi) Side deed of the estate owner
 - (vii) Environmental Deed
 - (viii) The Lease and Lease Guarantee and associated documents
 - (ix) Waste Supply and Support Agreement

REASON - The recommendations are supported by the following reasons:

- (a) External solicitors were appointed to advise and represent the Councils and have

been advising on the necessary documentation. They have advised that an ancillary suite of documents and agreements are approved to compliment the governance of the contract and its future monitoring and management.

C29 MEMBERSHIP CHANGES - TO CONSIDER ANY MEMBERSHIP CHANGES TO OTHER BODIES TO WHICH CABINET APPOINTS.

There were no membership changes reported at the meeting.

C30 TO CONSIDER THE EXCLUSION OF THE PUBLIC AND PRESS :-

C31 QUESTIONS.

**DECISIONS DATED –
FRIDAY, 10 OCTOBER 2025**