

**DECISIONS SHOULD NOT BE IMPLEMENTED BEFORE
MONDAY 28 SEPTEMBER 2020**

CABINET

Tuesday, 15 September 2020

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

INVITEES – Councillors Curry, Harker and Snedker

APOLOGIES – Councillors Mills

ALSO IN ATTENDANCE – Councillors Durham and Walis

C22 DECLARATIONS OF INTEREST.

There were no declarations of interest reported at the meeting.

C23 TO HEAR RELEVANT REPRESENTATION (FROM MEMBERS AND THE GENERAL PUBLIC) ON ITEMS ON THIS CABINET AGENDA.

In respect of Minutes C27(1) and C32 below, representations were made by Members in attendance at the virtual meeting.

C24 TO APPROVE THE MINUTES OF THE MEETING OF THIS CABINET HELD ON TUESDAY, 14 JULY 2020.

Submitted - The Minutes (previously circulated) of the meeting of this Cabinet held on 14 July 2020.

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

REASON - They represent an accurate record of the meeting.

C25 MATTERS REFERRED TO CABINET

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

C26 ISSUES ARISING FROM SCRUTINY COMMITTEE

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

C27 KEY DECISIONS:-

- (1) **BOROUGH OF DARLINGTON LOCAL PLAN 2016/36 – UPDATED LOCAL DEVELOPMENT SCHEME 2020/23**

The Cabinet Member with the Economy Portfolio introduced the report of the Director of Economic Growth and Neighbourhood Services (previously circulated) requesting that consideration be given to the revised timetable for producing the new Local Plan, including a revision to the Local Development Scheme, previously approved by Cabinet and Council (Minutes C114(4)/Feb/20 and 62/Feb/20 refer respectively).

The submitted report stated that the production of a Local Development Scheme (LDS) was a statutory requirement; the LDS set out the planning policy documents that would be prepared over the next three years; following the production of the LDS the focus would be the production of the Local Plan itself; an up to date Local Plan was essential to meet the development needs of the Borough to enable the Council to shape and maintain control of development; the Local Plan was a framework for growth; the success of the Borough was predicted on growth and underpinned the future vibrancy of the town and local communities; the Plan covered the period 2016 to 2036; and that following its adoption the Local Plan's policies and proposals would be monitored through an Implementation Plan to assess their effectiveness.

A Member addressed Cabinet in respect of the progress being made with the Local Plan, and made reference, in particular, to the Springfield Park Link Road and whether a decision had been made on its inclusion in the Plan; if there were any viable alternative access points to the road, should it go ahead; and if any capacity work had been undertaken on the roads in the area should the link road not be developed. Reference was also made to the Local Plan and the implications of the Government's White Paper on Planning, on the control of development. The Cabinet Member with the Economy Portfolio responded thereon.

RESOLVED - That the August 2020 Update of the Local Development Scheme 2020/23, as appended to the submitted report, be approved to take immediate effect.

REASONS - (a) Local Planning Authorities must prepare a Local Plan that sets out the local planning policies for their local planning authority area. Government guidance requires that Local Plans must be positively prepared, justified, effective and be consistent with national policy, in accordance with Section 20 of the Planning and Compulsory Purchase Act 2004 (as amended) and the National Planning Policy Framework (NPPF).

(b) The Council is required to have an up to date Local Development Scheme (Planning & Compulsory Act 2004, as amended by Section 111, Localism Act 2011).

(2) (URGENT ITEM) TOWN CENTRE CAR PARKING

The Cabinet Members with the Local Services Portfolio introduced the report of the Director of Economic Growth and Neighbourhood Services (previously circulated) providing an update on Town Centre Car Parking charges and requesting that consideration be given to providing funding to enable a range of parking offers to continue until the end of December 2020.

The submitted report stated that a series of parking officers had been approved to support the town centre in June 2018 and October 2019 (Minutes C11/Jun/18 and C53(3)/Oct/19 refer respectively); in response to Covid-19 all parking charges ceased to support the control of the virus; financial provision had been provided to continue

with free parking until the end of September 2020; as the recovery continued demand for parking had grown; and outlined the financial, legal and equality implications of continuing with a number of parking offers in the Town Centre.

Particular references were made at the meeting to the carbon impact of the proposals; the value for money of implementing the proposed offers; the amount of funding spent to promote and encourage other forms of transport, in the Town Centre, such as cycling; and the availability of places to store bikes securely in the Town Centre. Reference was also made to the impact on the Town Centre of those offers and if there was any supporting evidence that the increase in demand for car parking was due to a shift from one form of transport to another rather than increasing the number of people visiting the Town Centre. The Cabinet Member with the Local Services Portfolio responded to those issues thereon.

RESOLVED – That the parking offers, as detailed in Appendix 1 of the submitted report, be approved, and it be recommended to Council, as its meeting scheduled to be held on 24 September 2020 that:-

- (i) £392,883 of additional funding be released to extend the parking offers, as outlined in Appendix 1 of the submitted report, until the end of December 2020, to be funded from General Fund Reserves; and
- (ii) the long stay parking offer in East Street car park be retained permanently.

REASONS - (a) To approve the amendment to charges.

(b) To support the recovery of the town centre.

C28 REDEVELOPMENT OF THE VICTORIAN INDOOR MARKET

The Cabinet Member with the Economy Portfolio introduced the report of the Director of Economic Growth and Neighbourhood Services (previously circulated) requesting that consideration be given to the release of funds, for the delivery of a Temperate Garden, as part of the redevelopment of Darlington Victorian Indoor Market.

The submitted report stated that in 2019 the Council entered into a lease with Market Asset Management Darlington Limited (MAM) for the management, refurbishment of the Victorian Indoor Market and the management and improvement of the outdoor market; as part of the lease, MAM were obliged and committed to invest £1,500,000 to undertake redevelopment works on the indoor market; as a result of Covid-19 the redevelopment had stalled; since July 2020 the project had begun to get back on track with the completion of design briefs and the tender / procurement exercises had commenced; and outlined the proposed works for both the indoor and outdoor markets, including the installation of a temperate garden, which was an important element of the overall project. It was reported that following receipts of structural engineer reports the cost of the project had risen to £2,050,000, to be funded from the Tees Valley Combined Authority Indigenous Growth Fund.

In response to issues and concerns raised by Members, it was reported that the Council still owned the Indoor Market building, and that the contract with MAM, was for the management of the markets; and that although the roof of the Indoor Market

was in the process of being repaired, the work had not yet been completed, contrary to recent reports. Discussion ensued on the timetable for the project and the impact that Covid-19 had had on the that timetable.

RESOLVED – That, subject to grant funding conditions being agreed with Market Asset Management Darlington Limited:-

- (a) a grant of £2,050,000 to MAM, be supported, for investment into the Victorian Indoor Market for the development of the temperate garden and food and beverage outlets; and
- (b) the Tees Valley Combined Authority Indigenous Growth Fund allocation, be released, for that purpose.

REASON - To contribute to the further economic wellbeing and vitality of the Town Centre.

C29 DELIVERY OF NEW HOMES AT NEASHAM ROAD - JOINT VENTURE PROPOSAL AND LAND DISPOSAL

The Cabinet Member with the Economy Portfolio introduced the report of the Managing Director and the Director of Economic Growth and Neighbourhood Services (previously circulated) updating Members on the proposed delivery of new homes on Neasham Road and requesting that consideration be given to the establishment of a new Joint Venture Company (JVC) between Esh Homes Ltd and Darlington Borough Council to provide the infrastructure to open the site and then build and sell homes on parts of the site, as shown on the plan appended to the submitted report; the proposed disposal terms of land agreed between the Council and the new JVC; building 150 Council owned affordable homes on the site; determining the Sustainable Code Level which the dwellings are to be built to; and utilising £2.8m of Housing Infrastructure Funding (HIF) for strategic infrastructure at Neasham Road.

The submitted report stated that Esh Homes Limited had been appointed as a joint venture partner for residential development; the partnership had already proved to be a successful model for the accelerated delivery and provision of housing within the Borough; the acquisition and disposal of land at Neasham Road had been approved by Cabinet (Minutes C102/Jan/19 refers); planning permission had been granted in August 2020 for the development of 449 homes; and outlined the proposals for the three areas of the site.

RESOLVED - (a) That the establishment of a new Joint Venture Company (JVC) to deliver, build and sell new homes at Neasham Road, be approved, and delegated authority be given to the Assistant Director Law and Governance, to finalise the negotiations for the establishment of the Joint Venture Company.

(b) That £8.5m, from the Investment Fund be approved, to fund the JVC, financed by prudential borrowing subject to a legal charge in favour of the Council over the Land acquired by the JVC company together with a Guarantee from the Joint Venture partner in respect of 50 per cent of the loan sum.

(c) That the sale of the land to the JVC, be approved, conditional upon the completion of the Joint Venture Agreement.

(d) That the Assistant Director Law and Governance be authorised to execute the sale of the land, the entering into the joint venture and associated documents accordingly.

(e) That the Assistant Director Resources, the Assistant Director Housing and Building Services and the Assistant Director Law and Governance, be authorised, to act as directors in the JVC as part of its Executive Board.

(f) That upon completion of the Joint Venture agreement, a secured loan facility be entered into with the JVC as a secured loan simultaneous with the land transaction.

(g) That Area A, as shown on the plan appended to the submitted report, be developed by the JVC and Area B, as shown on the plan appended to the submitted report, be allocated to the Council's new build affordable housing scheme on the terms and conditions as outlined at Appendix 2a and Appendix 2b of the submitted report, and it be agreed that the Director of Economic Growth and Neighbourhood Services be granted Delegated Authority to finalise negotiations in line with the terms reported.

(h) That delegated powers be granted to the Director of Economic Growth and Neighbourhood Services, to transfer the land at Area B to the Housing Revenue Account, in line with the terms as outlined at Appendix 3 of the submitted report, and provide 150 Council owned affordable homes at an estimated build cost of £24.13m for Sustainable Code 3 level plus financial contributions towards Section 106 costs, as detailed at Appendix 4 of the submitted report, and works undertaken by the JVC, or an additional cost of £14,000 per property for 150 dwellings for Code 4.

(i) That the termination of agreements, relating to the former allotment land to secure vacant possession and negotiate compensation as appropriate, be approved.

(j) That the funding required to facilitate the development and to fund the additional fees, development costs and annual maintenance costs in relation to ecology, on the terms and conditions as outlined in Appendices 2a, 2b and 3 of the submitted report, be released and the £2.8m Housing Infrastructure Funding, currently utilised on Stag House Farm, be used on strategic infrastructure at Neasham Road (the external funding and commercial envelope information relating to Neasham Road, as identified at Appendix 5 of the submitted report).

REASONS - (a) To contribute to the our Covid recovery in line with the agreed Economic Strategy.

(b) Accelerates the building of new homes for sale by the JVC and contributes to our much-needed social housing requirement.

**C30 EXCHANGE OF LAND AT WHESSOE ROAD AND DRINKFIELD MARSH,
DARLINGTON**

The Cabinet Member with the Economy Portfolio introduced the report of the

Managing Director and Director of Economic Growth and Neighbourhood Services (previously circulated) requesting that consideration be given to exchanging 1.14 acres of land held by the Council at Whessoe Road, as shown hatched on the plan at Appendix 1 to the submitted report, for 0.83 acres of land adjacent to Drinkfield Marsh, as shown hatched on the plan at Appendix 2 of the submitted report.

The submitted report outlined the background to both areas of land; the proposed terms of the land exchange; and the valuation, finance and planning comments.

RESOLVED - (a) That the exchange of land, on the terms as set out in the submitted report, be approved.

(b) That the Assistant Director Law and Governance be authorised to complete the transfers of land accordingly.

REASON - In order to safeguard Drinkfield Marsh Local Nature Reserve.

C31 REVIEW OF OUTCOME OF COMPLAINTS MADE OMBUDSMAN

The Cabinet Member with the Resources Portfolio introduced the report of the Managing Director, Director of Children and Adults Services and the Director of Economic Growth (previously circulated) providing Members with an update of the outcome of cases which had been determined by the Local Government and Social Care Ombudsman (LGSCO) and the Housing Ombudsman (HO) since the preparation of the previous report to Cabinet on 3 December 2019 (Minute C85/Dec/19 refers).

The submitted report stated that during the second half of 2019/2020 the Council received two upheld Maladministration Injustice decisions from the LGSCO, compared to four for the same period in 2018/19; both the upheld Maladministration Injustice decisions related to financial assessments; and the actions identified to remedy the complaints should ensure that there was no re-occurrence.

In introducing the report, the Cabinet Member with the Resources Portfolio stated that he had requested a further report on the upheld maladministration cases, due to the sensitivities around the process of assessing an individual's contribution towards the cost of adult social care services.

RESOLVED - That the contents of the report be noted.

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

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

C32 COMPLAINTS, COMPLIMENTS AND COMMENTS ANNUAL REPORTS 2019/20

The Cabinet Member with the Resources Portfolio introduced the report of the Managing Director, the Director of Children and Adults Services and the Director of Economic Growth (previously circulated) providing Cabinet with the 2019/20

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 2019/2020 a total of 838 complaints had been received, an increase from 825 in 2018/19; 292 compliments had been received, an increase from 280 in 2018/19; and 168 comments had been received, a decrease from 240 in 2018/19.

The Chair of the Economy and Resources Scrutiny Committee addressed Cabinet in respect of a number of recommendations that were made by the Economy and Resource Scrutiny Committee, at its meeting held on 10 September 2020, and requested that future reports include the previous year's information as graphical information, rather than text, to allow comparisons to be made with previous years and more context around those complaints, compliments and comments.

Particular reference was made to one of the complaints detailed in the submitted report in respect of the removal of children from the care of their parents, and what action, if any, was taken in response to that complaint.

The Cabinet Member with the Resources Portfolio responded thereon.

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, as appended the submitted report, be noted.

(b) That the further recommendations as detailed in the Adult Social Care, Children Social Care, Corporate 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 that had taken place as a result.

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

C33 PROPOSED WRITE-OFF OF IRRECOVERABLE DEBTS 2019/20

The Cabinet Member with the Resources Portfolio introduced the report of the Managing Director and Director of Economic Growth and Neighbourhood Services (previously circulated) requesting that consideration be given to the write-off of former Housing tenant rent arrears, Housing Benefit overpayments, Non-Domestic Rates, Council Tax and Sundry Debtor invoices with individual values greater than £500, that were considered to be irrecoverable.

The submitted report stated that £607,190 of former Housing tenant rent arrears for 324 individual cases, representing 2.28 per cent of the annual rent debit; £163,523 of Housing Benefit overpayments in respect of 97 individual cases representing 0.57% of the total Housing Benefit expenditure; £1,292,456 of Non-Domestic Rates and

Council Tax representing 1.36 per cent of the total debit raised; and 18 individual sundry debts totalling £32,314.79, representing 0.09 per cent of the debt recoverable, were being written off, as no further steps could be taken to recover the sums.

Particular references were made by a Member in attendance at the meeting, on the reasons for the increase in the amount of write-off of irrecoverable debts that were proposed for 2019/2020, compared to previous years, and what the impact of Covid-19 would have on irrecoverable debts. The Cabinet Member with the Resources Portfolio and the Managing Director responded thereon, and in doing so, the Managing Director reported that a comprehensive review of outstanding debts had been undertaken during 2019/2020 and that the total write-offs included within the submitted report, included debts from previous financial years.

RESOLVED - That a total amount of £607,190 of former Housing tenant arrears, £163,523 of Housing Benefit overpayments, £1,292,456 of Non-Domestic Rates and Council Tax, and £32,314.79 of Sundry Debtor invoices be written-off, subject to steps for recovery being taken, wherever possible, if and when contact is made.

REASONS- (a) It is considered all practical steps have been made to recover the debts.

(b) To enable the Council's accounts to be maintained in accordance with the Financial Procedure Rules.

C34 INVESTMENT FUND UPDATE

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

The submitted report stated that an investment fund had been established for innovative investment opportunities beyond the traditional Treasury Management Strategy, in order to achieve greater returns; the fund was being used for joint venture vehicles and economic regeneration initiatives; returns on joint ventures were anticipated to be over £4M; the fund was currently being used on eight schemes; and outlined the impact of Covid-19.

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

(b) That the change of Gross Profit margin acceptable for a development in the Darlington Borough Council / Esh Joint Venture, as noted in Appendix 1 of the submitted report, be approved.

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.

C35 MEMBERSHIP CHANGES - TO CONSIDER ANY MEMBERSHIP CHANGES TO OTHER BODIES TO WHICH CABINET APPOINTS.

There were no membership changes reported at the meeting.

C36 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 to the Act.

**DECISIONS DATED –
FRIDAY 18 SEPTEMBER 2020**