

**DECISIONS SHOULD NOT BE IMPLEMENTED BEFORE
FRIDAY 14 JULY 2023**

CABINET

Monday, 3 July 2023

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

INVITEES – Councillors Dulston, K Nicholson and Snedker

ALSO IN ATTENDANCE – Councillors Mrs Culley, Henderson and Mrs Scott

C13 DECLARATIONS OF INTEREST.

There were no declarations of interest reported at the meeting.

C14 TO HEAR RELEVANT REPRESENTATION (FROM MEMBERS AND THE GENERAL PUBLIC) ON ITEMS ON THIS CABINET AGENDA.

In respect of Minute C18 below, representations were made by Members and members of the public in attendance at the meeting.

C15 TO APPROVE THE MINUTES OF THE MEETING OF THIS CABINET HELD ON TUESDAY, 13 JUNE 2023

Submitted – The Minutes (previously circulated) of the meeting of this Cabinet held on 13 June 2023.

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

REASON – The represent an accurate record of the meeting

C16 MATTERS REFERRED TO CABINET

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

C17 ISSUES ARISING FROM SCRUTINY COMMITTEE

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

C18 KEY DECISION - SKERNINGHAM GARDEN VILLAGE DESIGN CODE SUPPLEMENTARY PLANNING DOCUMENT

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

circulated).

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; and that 102 comments were received from 94 contributing consultees.

It was reported that the two consultation processes ensured that all stakeholders had the opportunity to comment on the draft SPD; the Council welcomed the various responses to the draft SPD; and that the Design Code had been amended based on the comments received.

In presenting the report, the Cabinet Member with the Economy Portfolio outlined two amendments to the SPD namely:- in respect of the alignment of the road to avoid existing wooded areas and being visible from the River Skerne, where possible, as detailed in the Guiding Design Principle on page 45, and the deletion of the last sentence in the movement section on page 108 regarding access to the distributor road from within the development, as it conflicted with Local Plan Policy.

A member of the public in attendance at the meeting stated that the UK was one of the most nature depleted countries in the world and that was one of the reasons why Skerningham was so important. The River Skerne runs through Skerningham and it was one of the most bio-diverse corridors in the town. Any pollutants during and after the construction works would go directly into the River Skerne and make its way to the River Tees.

Particular references were made at the meeting to the consultation process; the golf club; the distributor road; the speed limit on the road; the review process for the Local Plan and whether that could be brought forward; the possibility of building a bridge across the River Skerne for use by construction traffic; the house types to built on the site; and ambiguity around the amendments. A Member stated that the document would need to be reviewed and as part of that review consideration should be given to the housing need assessment; nutrient neutrality; biodiversity net gains; building standards; and the woodland. The Cabinet Member with the Economy Portfolio and the Leader responded thereon.

RESOLVED - (a) That the comments received from the consultation and the subsequent revisions that had been made to the Skerningham Garden Village Design Code Supplementary Planning Document, as appended to the submitted report, be noted.

(b) That the Skerningham Garden Village Design Code Supplementary Planning Document, as appended to the submitted report, be approved, and it be agreed that it move forward for further consideration and a decision by Council on its adoption at the meeting scheduled to be held on Thursday 20 July 2023, with the following amendments namely the:-

- (i) change to the second Guiding Design Principle on page 45 to read 'The road will be aligned to avoid existing wooded areas where possible and **shall** also be aligned to **avoid being** visible from the River Skerne where possible. Any loss of woodland will need an appropriate on-site mitigation which must result in net gain in community woodland on site';

- and
- (ii) the deletion of the last sentence of the movement section on page 108 which stated 'There will not be any direct access to the Skertingham Local Distributor Road from within the development'.

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

C19 QUARTER 4 - COUNCIL PLAN 2020/23 - DELIVERING SUCCESS FOR DARLINGTON PERFORMANCE REPORT

The Leader introduced the report of the Chief Officers Executive (previously circulated) presenting an overview of progress made towards achieving the key outcomes of the Council Plan 2020/23 entitled 'Delivering Success for Darlington' together with the Performance Management Report October 2022 to March 2023 (also previously circulated).

The submitted report outlined the vision of the Council Plan 'Delivering Success for Darlington' which was structured around the key priorities of growing Darlington's economy; maximising the potential of young people; working with communities to maximise their potential; supporting the most vulnerable in the Borough; and a dedicated workforce who were proud to serve the Borough and an accessible, effective and engaged Council.

The performance management report outlined the Council performance up to the end of the final quarter of the 2022/23 financial year and provided a high-level update on overall progress, across all portfolios, towards the overarching vision and priorities together with an update on each Cabinet portfolio area, highlighting progress made against key actions and relevant key performance indicators.

Reference was made at the meeting to reviewing the plan; the number of visitors to the Dolphin Centre in quarter four which seemed high particularly as the pool had been closed; the decrease of 1.5 per cent in the collection of rents; the challenges being faced by the Darlington residents in the current economic climate; the support available from the Council; the importance of working together to meet those challenges; and future bus services. The Leader and Group Director of Services responded thereon.

RESOLVED – That the progress made against the Council Plan 2020/23 'Delivering Success for Darlington', as set out in the performance management report appended to the submitted report, be noted.

REASON - To update Cabinet on the progress in implementing the Council Plan priorities.

C20 CONSULTATION ON RENEWAL OF DOG PUBLIC SPACE PROTECTION ORDERS

The Cabinet Member with the Stronger Communities Portfolio presented the report of the Group Director of Services (previously circulated) requesting that consideration be given to undertaking a consultation exercise on a potential renewal of the current dog Public Space Protection Order (PSPO) (also previously circulated).

The submitted report stated that the current dog PSPO was introduced on 31 January 2021; it was due to lapse in January 2024; as part of a review on the possible extension of the order, the Council must undertake statutory consultation as part of that review process; and that the consultation would be on the basis of the existing order.

It was reported that although the majority of dog owners and walkers in Darlington behaved responsibly, some related anti-social behaviour (ASB) was still a concern to some residents, businesses and people who visited the Borough. PSPOs were introduced in the Anti-Social Behaviour, Crime and Policing Act 2014; a PSPO was designed to deal with a particular nuisance or problem in an area; the behaviour must be detrimental to the quality of life of those in the community, it must be persistent or continuing and it must be unreasonable; the PSPO could impose restrictions on the use of that area which would apply to everyone who was carrying out that activity; and that the orders were designed to ensure that the law-abiding majority could enjoy public spaces, safely and free from anti-social behaviour.

Particular reference was made, at the meeting, to engagement with the responsible dog ownership group on the renewal of the PSPO.

RESOLVED – (a) That a consultation period of eight weeks to consider the renewal of the Public Space Protection Orders, for the control of dogs, as detailed in the submitted report, be approved.

(b) That a further report be submitted to a future meeting of Cabinet following the consultation, approved at (a) above.

REASON - To enable consultation to take place prior to Cabinet making the final decision on whether to renew the PSPO for dog control in Darlington.

C21 COLLECTION OF COUNCIL TAX, BUSINESS RATES AND RENT 2022/23

The Cabinet Member with the Resources Portfolio introduced the report of the Group Director of Operations (previously circulated) providing Members with an update on the collection of Council Tax, Business Rates and Council rents during 2022/23 and requesting that consideration be given to the writing-off of debts over £500 that are considered to be irrecoverable.

The submitted report stated that the collection of Council Tax, Business Rates and Council rents during 2022/23 had continued to be a significant challenge due to the current economic climate; normal recovery and enforcement activities that had been suspended during the Covid-19 pandemic had restarted but this had meant that a backlog of arrears had accumulated; despite the challenges, a total of £128.09M had been collected in 2022/23; and that approval was being sought to write-off a total of £1,138,852 of debts in respect of individual cases exceeding £500 for the financial year 2022/23, where it had become apparent that no further steps could be taken to recover the sums due.

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

(b) That the write-off of £1,138,852 for debts over £500, as detailed in the submitted report,

subject to further steps for recovery being taken, wherever possible, if and when contact with the debtor is made, be approved.

REASONS – (a) The collection of Council Tax, Business Rates and Council rents underpins the Council's Medium Term Financial Plan.

(b) The write-off of irrecoverable debts enables the Council's accounts to be maintained in accordance with Financial Procedure Rules

C22 PROJECT POSITION STATEMENT AND CAPITAL PROGRAMME MONITORING OUTTURN 2022/23

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 information to Members on the delivery of the Council's Capital Programme; the financial outturn position as at 31st March 2023; proposed financing of the 2022/23 capital expenditure; 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 that programme.

The submitted report stated that significant enhancements had been made to the Council's assets in the three major programme areas of schools, housing and transport, mostly using external funding; those investment were delivering a wide range of improvements to the Council's assets and services; capital expenditure in 2022/23 totalled £62.566M; there were 43 live projects currently being managed by the Council with an overall value of £186.705M; the majority of those projects were running to time, cost and quality expectations with no foreseeable issues; and that the projects were managed either by the Council's in-house management team, a Framework Partner or by Consultants sourced via an open/OJEU tender process.

In presenting the report the Cabinet Member with the Resources Portfolio reported that there had been a significant overspend on the West Cemetery development and that this would be investigated and reported back to a future meeting of Cabinet.

RESOLVED - (a) That the delivery and financial outturn of the 2022/23 Capital Programme, 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 25 of the submitted report, be approved.

REASONS - (a) To enable Members to note the progress of the 2022/23 Capital Programme and to allow the capital spend to be fully financed.

(b) To inform Cabinet of the current status of construction projects.

(c) To maintain effective management of resources.

C23 REVENUE OUTTURN 2022/23

The Cabinet Member with the Resources Portfolio introduced the report of the Group Director of Operations (previously circulated) presenting the 2023/23 revenue outturn, to allow Members to consider the results in the light of the Council's Medium Term Financial Plan (MTFP), and the Housing Revenue Account outturn.

The submitted report stated that this was the final revenue budget management report for 2022/23; the year-end projection showed an overall decline in the 2022/23 financial position of £0.119M; there was an improvement of £0.497M on the 2023/24 MTFP opening balance; outlined the variances from the original budget along with changes since the quarter three projected position; and stated that there were a number of carry forward requests, which would assist with projected slippage and pressures in the coming year.

RESOLVED - (a) That the revenue outturn for 2022/23, as detailed in the submitted report, be noted.

(b) That the carry forward of resources referred to in paragraphs 19 to 21, as detailed in the submitted report, be noted and approved.

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

(b) To continue to deliver services to agreed levels

C24 XENTRALL SHARED SERVICES ANNUAL REPORT 2022/23

The Cabinet Member with the Resources Portfolio introduced the report of the Group Director of Operations (previously circulated) requesting that consideration be given to reviewing the progress and performance of Xentrall Shared Services, the Stockton and Darlington Partnership.

The submitted report stated that Xentrall Shared Services, the Stockton and Darlington Partnership, was established in May 2008 and was now in its sixteenth year; the agreement covered ICT, Transactional HR, Transactional Finance and Design and Print; the initial savings that were identified were £7.4M over the original ten year period of the partnership; those savings had been achieved plus additional efficiencies and benefits and significant additional savings; quality and performance of services had improved; and that both Councils had benefited both financially and through a continued programme of service improvements.

Particular references were made to succession planning; opportunities taken in 2022/23 and external business retained; and the key achievements of the partnership in each of the service areas.

RESOLVED – That the report be noted and the continuing success of Xentrall Shared Services, since it was formed, be acknowledged.

REASONS – To allow Members to receive information about the progress of the partnership

C25 DELIVERY OF NEW HOMES AT NEASHAM ROAD - JOINT VENTURE PROPOSAL

The Cabinet Member with the Resources Portfolio introduced the report of the Chief Executive (previously circulated) requesting that consideration be given to the establishment of a Joint Venture Company (JVC) which will provide the infrastructure build and sale of homes at Neasham Road, under the company name Hurworth Gardens JV Limited; the sale of the land at Cell C, Neasham Road, as shown on the plan appended to the submitted report (also previously circulated) to the newly incorporated JVC; and to the payment of Nutrient Neutrality credits of circa £0.052M awarded, and agreement in principle to the purchase of further credits in accordance with Natural England requirements estimated at £0.122M.

The submitted report stated that the Council issued an OJEU procurement exercise in July 2017 to seek a joint venture partner for residential development; Esh Homes Limited were appointed; recommended the establishment of a new Joint Venture Company between the Council and Esh Homes Limited to acquire the site and bring forward residential development on the Neasham Road Cell C; stated that the purchase price for the site had been negotiated; and that the Joint Venture Company would purchase the site and undertake associated works to deliver housing.

It was reported that an application for planning permission had been submitted for the delivery of 144 houses on the site; in order to develop the site a payment for Nutrient Neutrality credits (payable to Natural England) of £51,690 was required; the calculations had now been revised in line with new advice from Natural England, meaning that an additional circa £0.122M could be required; the Council would apply for those additional credits however if they were not forthcoming in the required timescales there was a Plan B, where mitigation land could be made available.

The Joint Venture Company would be based on a 50:50 split between the Council and Esh Homes Limited and the Company would return developer profits to the Council and Esh Homes Limited; the Joint Venture Company would be fully funded by the Council and this would be via prudential borrowing of up to a maximum of £6.7M; the loan would be repaid via the Joint Venture Company to the Council and it would generate a net income to the Council after taking into account any cost of borrowing undertaken by the authority; and that the estimated pre-tax profit share for the Council would be £0.694M.

Reference was made at the meeting to the loss of affordable housing on the site; whether a review had been undertaken of the scheme; the need to undertake a re-assessment of Housing Association and affordable housing in the Borough; and the benefits of mixed communities. The Chair and the Cabinet Members with Health and Housing and Resources Portfolios responded thereon.

RESOLVED - (a) That the establishment of the Joint Venture Company to acquire the site, deliver, build and sell new homes at Neasham Road Cell C, as shown on the plan appended to the submitted report, be approved.

(b) That the release of £6.7M from the Investment Fund, be approved, to fund the Joint Venture Company financed by prudential borrowing, subject to a first Legal Charge in favour of the Council over the land acquired by the Joint Venture Company, together with a Guarantee from the Joint Venture Partner in respect of 50 per cent of the loan sum.

(c) That the Joint Venture Agreement, be approved, and authority be delegated to the Chief Executive to negotiate the final terms of the Joint Venture Agreement and finalise the establishment of the Joint Venture Company, in line with the terms and supporting Development Appraisal and Cashflows as detailed in Appendices 2 and 3 (Part III), of the submitted report.

(d) That, conditional upon completion of the Joint Venture agreement, a secured loan facility be entered into with the Joint Venture Company, as a secured loan simultaneous with the land acquisition.

(e) That the Chief Executive, Group Director of Operations and the Assistant Director Law and Governance be appointed to act as directors in the Joint Venture Company as part of its Executive Board.

(f) That the Joint Venture be funded from prudential borrowing from the Capital Investment Fund.

(g) That the purchase of initial Nutrient Neutrality credits of £0.052M, be approved, and any future obtained credits circa £0.122M be approved, to enable the site to be built out.

REASONS – (a) To assist in the delivery of the Economic Strategy by speeding up the building of new homes.

(b) To deliver income for the Council.

C26 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.

C27 MEMBERSHIP CHANGES - TO CONSIDER ANY MEMBERSHIP CHANGES TO OTHER BODIES TO WHICH CABINET APPOINTS.

There were no membership changes reported at the meeting.