



## RECORD OF EXECUTIVE DECISIONS

The following is a record of the decisions taken at the meeting of **CABINET** held on **Wednesday 16 September 2020**. The decisions will come into force and may be implemented from **Monday 28 September 2020** unless the Corporate Overview and Scrutiny Management Committee or its Committees object to any such decision and call it in.

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### **Council Plan 2020-2023 [Key Decision: CORP/R/19/04]**

#### **Summary**

The Cabinet considered a report of the Corporate Director of Resources which presented a draft Council Plan for 2020-23 for consideration, prior to submission to full Council for approval.

The Council Plan is the primary corporate planning document for the county council and details Durham County Council's contribution towards achieving the objectives set out in the Vision for County Durham 2035, together with its own change agenda. It aims to provide a summary for Members, partners and the public of priorities for the county, and the main programmes of work that will be undertaken over the coming three years to help achieve these priorities. The Council Plan aligns to both the council's Medium Term Financial Plan, which sets out how priorities will be resourced, and the County Durham Plan which is a spatial representation of ambitions contained within the Council Plan around housing, jobs and the environment until 2035, as well as the transport, schools and healthcare to support it. The Council Plan is underpinned by a series of corporate strategies and service planning arrangements providing more detailed information on the actions which are being undertaken to deliver on priorities. The report also presented new equality objectives.

#### **Decision**

The Cabinet:

- (a) agreed the contents of the draft Council Plan and recommend it for approval by Council, subject to any final minor amends by the Corporate Director of Resources;
- (b) agreed the revised Equality Policy.

## **Selective Licensing Scheme [Key Decision: REG/03/20]**

### **Summary**

The Cabinet considered a report of the Corporate Director of Regeneration, Economy and Growth which proposed a Selective Licensing scheme for homes which are privately rented in some parts of County Durham. The scheme will cover 42% of the private rented sector (PRS) in the county and, as this is over 20%, it is a legislative requirement to obtain Government approval. Prior to the application being made to Government, the council has consulted on the proposals and gathered and analysed the results.

Details of the reasons for implementing the scheme, the proposed scope of the scheme, the costs of licensing, the operational structure of the scheme and the timetable were contained in the report. These will form the basis of the submission to the Secretary of State for the implementation of selective licensing in County Durham.

In County Durham there is a growing number of private rented sector landlords, with many in some of the most deprived and low value areas. Unfortunately, anti-social behaviour is also blighting some communities, and, as a result the council is seeing the confidence in some areas reduce, with growing numbers of empty properties, and rent and house values reducing. A key objective of The County Durham Housing Strategy 2019 to 2024 is to maintain and improve standards across County Durham's housing stock and the wider housing environment which includes developing an approach to selective licensing, addressing empty homes, improving energy efficiency of properties and supporting and maintaining communities. The scheme will make a significant contribution to a wider strategy of improving the county's towns and villages by improving both housing conditions and access to quality housing.

Tenure intelligence modelling work carried out before consultation means the private rented sector levels are even greater than originally estimated when looking into the business case for selective licensing. In County Durham the private rented sector is significant with an estimated total of 68,516 properties representing 28% of the total homes in the county, above the current national average of 19.46%.

As the private sector grows, so does the number of private landlords. One bad landlord can disproportionately affect an area and negativity can quickly spread between owners and tenants – all affected by dropping house prices and increased empty homes. The introduction of selective licensing in areas where there is a high proportion of private rented stock can help to create sustainable neighbourhoods.

This will be achieved by improving housing standards as well as providing tenants with a greater choice of safe, good quality and well managed accommodation. Proactive enforcement action will be taken against both unlicensed properties and/or where there are breaches of the licence conditions. The conditions of the licence will require that the property is managed effectively and will give tenants added protection against poor landlords. When applying, the council will need to be satisfied that proposed licence holders are 'fit and proper persons' to hold a licence, and that they have satisfactory management arrangements in place including for dealing with anti-social behaviour.

There are areas within the county that do not form part of the proposal for selective licensing. They do not currently meet the statutory or guidance criteria set out by the Secretary of State. Officers will monitor various datasets relating to these areas and, should any meet the criteria in the future, Cabinet will be asked to consider a separate application to the Secretary of State to extend the scheme in the county.

The licence will last for five years and the council will set a charge that the landlord must pay for each property in ownership that is rented. A licence fee of £500 is proposed but discounts will be available which could reduce the fee to £350. The income received from the scheme is ring fenced to the administration of the scheme and will fund the staffing infrastructure and associated costs. The body of the report will provide a high-level understanding of the staffing and support infrastructure that will be put in place.

The application to the Secretary of State must be robust and clearly demonstrate that the tests and criteria set out in the legislation and the Government guidance have been met and have clarity in terms of the areas included. Robust consultation must have taken place and any concerns expressed properly considered.

Consultation has taken place proposing 43 of the 66 Middle Super Output Areas (MSOAs) within County Durham as the basis for data collection and analysis. A list of the 43 MSOAs consulted on were detailed at Appendix 3 of the report. Consultation provided more information as to the relative issues within each MSOA and, partly as a result, areas have changed (to Lower Super Output Areas) to reflect a more detailed analysis.

MSOAs can vary in size but most contain approximately 3,000 to 4,000 residential addresses. Generally, each MSOA can contain four to six LSOAs, which can often be a village, or for larger villages or towns these can still be broken down into LSOAs of generally 500 to 800 residential addresses. Analysing at these smaller areas (LSOAs) shows transparency and fairness, and that the council are only targeting the areas that require a scheme now and can be improved because of it.

Subject to authorisation from the Secretary of State, the scheme is expected to go live around April 2021. The scheme will benefit from close partnership working both internally (HMO licencing, private sector housing, etc.) and externally (Safe Durham Partnership, Police, Fire & Rescue Service, Probation Service, and housing providers etc.).

## **Decision**

The Cabinet authorised:

- (a) the proposed areas to be designated and submitted in a formal application to the Secretary of State for confirmation;
- (b) the proposed licence fee of £500 with discounts, as set out in the report;
- (c) the scheme service proposals outlined in the report;
- (d) delegated powers for the Director of Regeneration, Economy and Growth to amend selective licensing conditions, in conjunction with the portfolio holder for strategic housing and assets, in line with legislation and/or best practice.

## **Forecast of Revenue and Capital Outturn 2020/21 – Period to 20 June 2020 and Update on Progress towards achieving MTFP(10) Savings**

### **Summary**

The Cabinet considered a report of the Corporate Director of Resources which provided information on the:

- a) forecast revenue and capital outturn for 2020/21;
- b) forecast for the council tax and business rates collection fund position at 31 March 2021;
- c) forecast use of earmarked, cash limit and general reserves and estimated balances to be held at 31 March 2021.

The report also sought approval of the budget adjustments and proposed sums outside of the cash limit, and, provided Cabinet with an update on progress towards achieving MTFP(10) savings.

Since the outbreak of COVID-19, the council, partners and local communities have been working tirelessly to respond to the pandemic and to put steps in place for recovery. The financial implications of COVID-19 are significant and complex which makes forecasting the council's outturn position even more challenging than usual. The financial position of the council will be monitored very closely over the coming months to ensure that steps can be taken to maintain spending within available budgets and to reallocate resources as required.

It is currently forecast that service grouping budgets will overspend by £43.3 million. This overspend position results from additional expenditure and loss of income associated with the COVID-19 outbreak.

The government has provided three tranches of funding for local authorities for additional costs incurred as a result of COVID-19. This funding is allocated based upon formulae and to date the council has received £38.1 million. Of this, £1.1 million was to cover costs incurred in 2019/20. This leaves funding available of £37 million to be applied in 2020/21.

The government has also announced an 'Income Guarantee Scheme' to provide financial support for lost sales, fees and charges income. The details of the scheme were published on 23 August 2020. The scheme requires councils to bear the first 5% of any qualifying income loss after which the government will provide a grant for 75% of subsequent losses. A number of areas of income loss such as commercial income and rental income are not covered by the scheme. In addition, any underspends generated in the areas in question must be utilised to offset any lost income.

The guidance details that an initial return will be required for the period April 2020 to July 2020 and submitted by the end of September. The council will then expect to be advised by government in October if this initial claim is successful. Subsequently returns would then be submitted in December and finally April 2021. Whilst the Income Guarantee Scheme will enable the council to reclaim a proportion of lost income, at this stage the forecasts do not include an estimate of the amount that will be recovered as this will be dependent upon the content of the September and later returns and their acceptance by government.

The government has also indicated that the financial impact of any Collection Fund deficits for council tax and business rates can be spread over three years. At this stage, after netting off additional Section 31 grant for extended business rate reliefs, the council is forecasting its share of the in year Collection Fund deficit at £4.1 million. This position could further deteriorate if the county experiences further job losses or business failure over the coming months.

After taking account of estimates of cost, lost income and additional government funding, it is forecast that the council will overspend by £6.16 million. This position is heavily caveated at this stage because of the wide range of assumptions that have been made in relation to expenditure and income over the remainder of the financial year and the uncertainty over the level of additional government funding that will be made available through the Income Guarantee Scheme.

In terms of service grouping cash limits, the projected revenue outturn is a forecast cash limit underspend of £1.024 million (0.23%). The cash limit position excludes COVID-19 related issues which are considered to be outside of the control of budget managers.

The total forecast net overspend of £6.16 million represents 1.4% of the net expenditure budget of £440.890 million.

Total earmarked and cash limit reserves (excluding school reserves) are forecast to reduce by £24.571 million in 2020/21, from £204.697 million to £180.126 million. This mainly results from the utilisation of the £17.5 million held in earmarked reserves in relation to Tranche 1 of the government COVID-19 Support Grant.

The projected capital outturn is £155.780 million.

The estimated outturn for the Council Tax Collection Fund is a deficit of £5.576 million after taking into account the in year position and deficit brought forward from 2019/20. Durham County Council's share of this forecasted deficit is £4.670 million.

The estimated outturn for the Business Rates Collection Fund is a deficit of £41.563 million after taking into account the in year position and the surplus brought forward from 2019/20. Durham County Council's share (49%) of this estimated deficit is £20.366 million, before accounting for the receipt of compensating Section 31 grant for extended business rate reliefs and discounts.

For MTFP(10), the council has delivered quarter one savings of £7.033 million which is 88% of the £8.010 million target. Since 2011, the council has delivered over £241 million in savings.

## **Decision**

The Cabinet:

- (a) noted the council's overall financial position for 2020/21 and the uncertainty associated with the outturn forecast resulting from the impact of the COVID-19 outbreak as set out in the report;
- (b) agreed the proposed 'sums outside the cash limit' for approval;
- (c) agreed the proposed reallocation of the former Regeneration and Local Services and Transformation and Partnerships cash limit reserves;
- (d) agreed the revenue and capital budget adjustments;
- (e) noted the forecast use of earmarked reserves;
- (f) noted the forecast end of year position for the cash limit and general reserves;

- (g) noted the additional costs and income loss faced as a result of COVID-19 which is offset by additional grant funding provide by government
- (h) noted the position on the capital programme and the Collection Funds in respect of Council Tax and Business Rates;
- (i) noted the amount of savings delivered during quarter one of the MTFP(10) period.

## **Annual Enforcement Programme Children and Young Persons (Protection from Tobacco) Act 1991 and Anti-Social Behaviour Act 2003**

### **Summary**

The Cabinet considered a report of the Corporate Director of Regeneration Economy and Growth which reviewed enforcement activities under the Children and Young Persons (Protection from Tobacco) Act 1991, the Anti-Social Behaviour Act 2003 and the Licensing Act 2003 for the period April 2019 to March 2020 and sought approval of a new enforcement programme for 2020/21.

The County Council has statutory responsibility for enforcement of age restricted products, namely tobacco, spray paint containers, alcohol, videos and DVDs, cigarette lighter refills, fireworks and the proxy sale of tobacco products and supply of nicotine inhaling products to under 18s. The Authority has also elected to enforce the age-restricted sales of solvents and glue, knives, access to gaming establishments and access to sunbed premises.

For many years the Authority has taken a proactive approach to tackling the harms and criminality associated with the illegal supply and misuse of alcohol and tobacco within County Durham. Together with partners in the Police Harm Reduction Unit and the County Durham Tobacco Alliance, we continue to conduct high visibility enforcement campaigns to tackle the health inequalities and links with organised crime associated with these products. Protection of children is also a high priority. This forms part of a holistic approach the County Council has adopted to tackle the harms caused by alcohol and tobacco as well as tackling the wider determinants of health.

The report provided details of enforcement activity during 2019/2020, in relation to age restricted products and tackling supplies of illicit tobacco, and reported on complaints, test purchase and seizure activity for this period.

The proposed enforcement programme for 2020/2021 includes the activities detailed as follows:

- (a) An intelligence led approach to underage sales enforcement and illegal tobacco. This will continue to develop the intelligence from the “Keep it Out Campaign” to deliver enforcement action where possible. Continue to develop sources of community intelligence through partnership working and publicity activity.
- (b) Working in partnership with the Police and other enforcement agencies to identify and disrupt the involvement of organised criminality in the illicit tobacco supply chain.
- (c) Investigation of all consumer and trader complaints.
- (d) Undertaking market surveillance project activity in relation to age restricted products.
- (e) Continuation of joint working with the Police Harm Reduction Unit and other agencies to adopt a holistic approach to solving problems associated with the accessibility and misuse of age restricted products.
- (f) Hold events to raise public awareness of the harms associated with illicit tobacco, to publicise the work of the service and encourage reporting of this criminal activity.
- (g) Continuation of the ‘Do You Pass’ retailer training as a way of assisting business.
- (h) Continuation of work in partnership with the Police, HMRC and other agencies to tackle sales from private premises to children, particularly in relation to alcohol and tobacco.
- (i) Working with the County Durham Tobacco Alliance partners, provide guidance to traders on the legal requirements surrounding E Cigarettes/Vaping equipment and products and access of their customers to advice on smoking cessation support.
- (j) Continuation with a practice of reviewing premises when appropriate, following incidents of the underage sale of alcohol.
- (k) Continuation of work to tackle health inequalities and antisocial behaviour associated with the misuse and illegal supply of age-restricted products, in particular alcohol and tobacco.
- (l) Deliver business advice on and carry out enforcement of new legislation for which we may be statutorily responsible including all new legislation, which may emerge in relation to knife sales and corrosive substances, once these provisions commence in law.

The agreement of the proposed Enforcement Programme for 2020/2021 will ensure that the Council continues to address the problem of underage sales and access to age restricted products by those underage as well as the wider health and criminal issues surrounding these products.

Adoption of the Offensive Weapons Act 2019 will ensure that the service can respond to complaints and address any compliance issues relating to the sale of bladed articles and corrosive products from retail and remote sellers in a timely manner.

## **Decision**

The Cabinet:

- a) noted the enforcement activity undertaken during 2019/2020;
- b) approved the proposed enforcement programme for 2020/2021;
- c) noted the anticipated changes in enforcement action upon a commencement order being made in respect of the Offensive Weapons Act 2019.

## **Maintained School Budget Plans and Permission to Set Deficit Budgets 2020/21**

### **Summary**

The Cabinet considered a joint report of the Corporate Director of Children and Young People's Services and Corporate Director of Resources which provided an overview of maintained schools' initial budget plans for 2020/21, as agreed by the relevant Governing Bodies. The report highlighted where the Corporate Director, Resources has exercised his judgement in terms of approving the setting of deficit budgets, in accordance with the Council's constitution and the Scheme of Financing for Schools.

Schools carry forward under and overspends against their budgets as part of their retained balances. This is a concern for the council, because deficit balances could become a cost to the council if a school closes or becomes a sponsored academy.

Previous experience is that schools' initial budget plans, and the updated budget plans prepared during the autumn term, tend to underestimate final balances, which are usually significantly higher than those included in the budget plans and forecasts.

At the end of 2019/20 the net balances carried forward by maintained schools were £16.066 million. The Quarter 3 forecast of outturn indicated that school balances would have retained net balances of £15.548 million. Since the end of 2019/20, retained balances have changed as a result of schools converting to academies, including one school with a substantial deficit. The current net retained balances for maintained schools come to £16.478 million.

The initial budget plans submitted by schools for 2020/21 sees a significant forecast use of schools' reserves to balance individual budgets. Plans agreed by individual governing bodies show that schools are currently planning to utilise £8.002 million of their retained balances as at 31 March 2020 in 2020/21, reducing the forecast schools' balances at 31 March 2021 to £8.476 million. Experience suggests that schools will use much less than this and that the final balance figure will be much higher.

Budget planning has been and will continue to be impacted by the Covid-19 lockdown. Whilst many costs will not be affected, schools will lose third-party income (from lettings and out-of-school childcare), and planned savings through restructures have been delayed in some cases, which will reduce in-year savings in 2020/21. Schools will not be able to claim additional grant to offset these losses. Eight schools submitted initial budget plans that would result in a deficit balance being carried forward at the end of the current financial year. Of these, seven had a deficit at 31 March 2020, with four of these being schools with long standing financial issues. Five of the schools that have submitted an initial budget plan with a deficit carried forward at the end of this financial year were schools that had a licensed deficit in 2019/20.

The Corporate Director for Resources has considered the initial budget plans submitted by all schools where the school requested a deficit budget plan. The Corporate Director of Resources, who is the council's S.151 officer and must approve licensed deficits has approved licensed deficits for six schools and has provisionally approved a further two school requests pending the outcome of further reviews.

## **Decision**

The Cabinet noted the action taken under delegated powers by the Corporate Director for Resources to approve licensed deficits for six schools and to provisionally approve licensed deficits for two other schools pending the outcome of further reviews for the reasons set out in the report.

## **Weardale Railway: Request for Financial Support**

### **Summary**

The Cabinet considered a report of the Corporate Director of Regeneration, Economy and Growth which advised Cabinet on the current position and opportunity regarding the development of Weardale Railway and of a request from The Auckland Project (TAP) to support its future development. The Weardale Heritage Railway line stretches from Bishop Auckland to Eastgate, a total of 19 miles although the most recent use of the line is only 16 miles from Bishop Auckland to Stanhope. This provides an important transport link between those areas as well as an important asset to attract the visitor economy. The line connects a number of towns and villages and has open stations at Witton le Wear, Wolsingham, Frosterley and Stanhope.

Weardale Railways CIC (Community Interest Company) is the holding company for the railway. It is 75% owned by British American Rail Services (BARS).

The remaining 25% voting rights are shared between the Weardale Railway Trust and Durham County Council. The CIC provides management services for the railway and is the responsible body to the official Railway authorities. The Auckland Project (TAP) has now concluded the purchase of the Heritage Railway and is seeking to secure the required certificates and authorisation from the Department of Transport to allow trains to run on the line.

In December 2019 TAP provided the council with a high level business case with financial projections over a three year period. The intention is to successfully develop the railway to protect and sustain this heritage asset, provide employment and training opportunities, enhance the wider visitor experience in Durham, develop the volunteer base and eventually extend the passenger rail network to the west of Bishop Auckland. If delivered successfully, directly support the local area, economy and communities. The 5 objectives are described as:

- (a) provide a world class tourist attraction, made available for the people of Bishop Auckland, Weardale and the wider area in addition to national and international visitors;
- (b) economic regeneration of the areas served by the Weardale Railway via tourism;
- (c) employment for local people associated with a world class visitor attraction;
- (d) the provision of education opportunities for local people;
- (e) the sustainable use of the natural environment in partnership with heritage and commercial activities.

An additional 160,000 visitors to Bishop Auckland are estimated as a result of the Weardale Railway increasing GVA by an estimated £3.2 million.

Successful delivery of the objectives above will result in a sustainable future for an important heritage asset and will deliver a number of economic and social benefits to the local area and wider County.

In order to make the project viable, the council is being asked to provide financial support towards the costs of repairs to a number of bridges along the line. The financial business plan provided to the council deals only with the first three years of operation and there are no guarantees of the longevity of the initiative. No financial projections over the longer term have been provided.

In view of the limited detailed business case information, the current Covid-19 environment and the historical difficulty associated with creating a sustainable heritage offer at Weardale railway the provision of £2.1 million financial support represents a significant commitment.

The Cabinet considered the option of linking any financial support to a requirement to repay the amount in the event of certain events occurring.

The grant funding requested meets the relevant tests to constitute State Aid. The General Block Exemptions Regulations allow aid to be granted for culture and heritage conservation which this project falls squarely within. The total amount of aid granted must not exceed the difference between the eligible investment costs and the projected operating profit.

The opening of the heritage railway and the continued investment and associated economic leverage in Bishop Auckland is important to the County and local area. The financial ask, however, is significant and comes at an unprecedented time. Taking all factors into account it is suggested that the council supports the project and provides a grant of £2.128 million subject to a formal grant agreement as referenced in the body of the report.

## **Decision**

The Cabinet agreed:

- a) to the provision of a grant totalling £2.128 million to Weardale Railway / The Auckland Project as outlined the report; and
- b) delegated powers to finalise the agreement be given to the Deputy Leader and Portfolio Holder for Finance, the Portfolio Holder for Economic Regeneration, the Portfolio Holder for Transformation, Tourism and Culture, the Corporate Director of Resources and the Corporate Director of Regeneration, Economy and Growth to finalise the agreement.

Helen Lynch  
Head of Legal & Democratic Services  
18 September 2020