

# **Cabinet**

**13 February 2017**

**Present:** N Redfearn (Elected Mayor) (in the Chair)  
Councillors CA Burdis, EN Darke, R Glindon, IR Grayson,  
M Hall, JLL Harrison, CB Pickard, JJ Stirling and  
A Waggott-Fairley

**In Attendance:** K Archer (Young Mayor)  
D Rose (Business Sector)  
R Layton (North Tyneside JTUC)  
P Wonders (Voluntary and Community Sector)

## **CAB125/02/17 Apologies**

Apologies were received from A Caldwell (Age UK) and S Scott (Northumbria Police).

## **CAB126/02/17 Declarations of Interest and Dispensations**

Councillors R Glindon and CB Pickard each declared a registerable personal interest in item 7(a) Delivering Housing Growth through the North Tyneside Trading Company (Minute CAB136/02/17), as they were both Directors of North Tyneside Trading Company, North Tyneside Trading Company (Consulting) Limited, North Tyneside Trading Company (Development) Limited, North Tyneside Trading Company Aurora Properties (Sales) Limited and North Tyneside Trading Company Aurora Properties (Rental) Limited. A dispensation had been granted to both Councillors Glindon and Pickard in relation to the main Trading Company appointment.

## **CAB127/02/17 Minutes**

**Resolved** that the Minutes of the meetings held on 16 January and 25 January 2017 be confirmed and signed by the Chair.

## **CAB128/02/17 Report of the Young Mayor**

The Young Mayor reported on the following activities in which he, Young Cabinet Members and/or Youth Councillors had been involved:

- The second stage of the Young Mayor election was currently taking place. The Young Mayor had supported the election process by meeting candidates and sharing his experience of what he'd been involved with over the last year.
- Youth Councillors and the Young Mayor had attended the adult Council meeting. They hoped to make this a regular event as many of the youth councillors were interested in knowing more about the decision making process in North Tyneside.
- The Young Mayor had addressed the Holocaust Memorial event, the theme for this year being 'How Can Life Go On'.
- The Deputy Young Mayor and Young Mayor had attended the North Tyneside Disability Forum Variety Show at Whitley Bay Playhouse.
- The Young Cabinet Member for Anti Bullying had given a presentation to the Safer North Tyneside Board meeting about the 'Your Present Your Future' anti bullying website. It had been well received by the Board with recommendations to take it to the head teachers briefing. The Anti Bullying working group were updating the website

with current information and films. The next set of schools were about to undertake the anti bullying awards.

- The Young Cabinet Member for Ready for School had been involved in interviews for students who were training to be health visitors.
- The Children's Council (under 11year olds) were leading on a virtual school council meeting. Children's Council members were also taking part in the Junior Civic Award; they were walking in Holywell Dene as part of the expedition section.
- Four young people had been selected to go to London as part of a national project run by the Social Care Institute for Excellence to gain the views from children in care and care leavers around mental health services. This would feed direct to Government decision makers.
- As part of the Regional Children in Care Council, young people from each of the local authorities in the region would be attending a meeting with all of the Chief Executives from across the region on Friday 17 February, to talk about the campaign they had been working on to improve leaving care.

This was the Young Mayor's last update as his year in office was coming to an end. He had enjoyed the past year very much and would be staying on the youth council to continue to make a difference and fully achieve his pledges.

R Layton (North Tyneside TUC) thanked the Young Mayor for instigating the important anti-bullying work.

The Elected Mayor thanked the Young Mayor for the excellent work undertaken throughout his term of office and for his many achievements. Cabinet Members associated themselves with those sentiments and wished the Young Mayor every success for the future.

### **CAB129/02/17 Determination of School Admission Arrangements 2018 (All Wards)**

Cabinet considered a report detailing the proposed admission arrangements for all Community Schools in North Tyneside for the 2018/2019 academic year, including the coordinated admissions schemes.

All Local Authorities were required to formulate and consult on a scheme for each academic year for co-ordinating admission arrangements for all maintained schools within their area. This requirement included maintained boarding schools, but excluded maintained special schools and maintained nursery schools. Co-ordinated schemes were intended to simplify the admission process for parents whilst reducing the likelihood of any child being left without a school place. Co-ordination established a mechanism that ensured that, as far as practical, every child living in a local authority area who had applied in the normal admissions round received one, and only one, offer of a school place on the same day. While it is was for each local authority to decide the scheme that best suited its residents and its schools, authorities had to:

- a. comply with law and regulations, including all the process requirements; and
- b. not disadvantage applications to their schools from families resident in other local authorities.

The Scheme applied to applications received from September 2017 for entry into maintained schools in September 2018. The School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 (the Regulations) required the local authority to exchange specified information on applications with neighbouring authorities.

The purpose of the Scheme was to co-ordinate admissions into all mainstream maintained first and primary, middle and high schools in North Tyneside. The Regulations also placed a duty on all local authorities to make arrangements within their Scheme for cross-authority border co-ordination of admissions.

All schools had to have an admission number for each 'relevant age group'. This was defined in law as 'an age group in which pupils were or would normally be admitted' to the school in question. Admission Authorities of maintained schools had to set admission numbers with regard to the capacity assessment for the school under the Regulations.

Pupils would be able to go to their preferred school unless there were more applications to that school than there were places available. If there were more applications than places available at a school, oversubscription criteria would be used to allocate places after any children with a Statement of Special Educational Needs or an Education, Health and Care Plan had been provided for where the Statement or the Education, Health and Care Plan named a specific school.

Where a secondary school operated a sixth form and admitted pupils from other schools at age 16, for instance, an admission number would be required for Year 12 as well as for the main year or years. Admission numbers must refer to pupils being admitted to the school for the first time and not transferring from earlier age groups. The entry requirements for sixth form were largely dependent on the course of study that a student wished to access. Details of specific requirements and courses available may be obtained for individual schools. All schools published information about their post 16 provision.

The only formal consultation which had been undertaken by the local authority for community schools for the 2018/19 academic year was in respect of the proposed changes to Backworth Park Primary School which was increasing the published admission number from 30 to 45 to align with the relocation and expansion of the school on a new site.

The North Tyneside Learning Trust had been established in September 2010 and currently comprised of 44 schools. The governing bodies of these schools were responsible for determining their arrangements in accordance with the School Admissions Code 2014. Five of the schools in the Learning Trust were Special Schools and these arrangements did not apply to them.

The governing bodies of voluntary aided schools were responsible for consultation and determining their own admission arrangements in accordance with the School Admissions Code 2014. No formal consultation had been undertaken by the respective governing bodies for the 2018/19 academic year as there were no changes to the previously published arrangements.

The governing bodies of the three academies were responsible for consultation and determining their own admission arrangements in accordance with the School Admissions Code 2014.

Any school which subsequently changed status would be responsible for determining their own admission arrangements in accordance with the School Admissions Code 2014.

Cabinet considered the following decision options: either to agree the recommendations as set out in section 1.2 of the report, or alternatively to disagree with the proposals and request officers undertake further work to change the proposed admission arrangements.

**Resolved** that (1) the 2018 proposed admission arrangements and limits for Community Schools, as outlined in Appendices 1 to 5 to the report, be approved, subject to the appropriate publication of statutory notices;

(2) the Head of Commissioning and Investment be authorised to proceed in administering admission arrangements for the 2018/2019 academic year, subject to the publication of statutory notices and compliance with obligations required by the Secretary of State in accordance with the timescales set; and

(3) the Head of Commissioning and Investment be authorised, in consultation with the Cabinet Member for Children, Young People and Learning, to formally seek approval, as necessary, from the Schools Adjudicator in accordance with the School Admissions Code 2014 for any necessary variations to the determined arrangements for the 2018/19 academic year should these arise.

(Reason for decision – to secure compliance with statutory requirements as outlined in the report.)

**CAB130/02/17 NE12 Regional Procurement – Children’s Homes, Short Breaks and Independent Special Schools (Previous Minute CAB 158/03/15) (All Wards)**

Cabinet considered a report seeking approval to proceed with a collaborative procurement exercise that would establish a regional arrangement for contracts with children’s homes, residential short break providers and non-maintained and independent special schools and colleges.

The Authority required the services of external children’s homes, residential short break providers and independent or non-maintained special schools and colleges when internal provision was unable to meet the specific needs of a child or where there was insufficient capacity within internal services.

The report provided details of the Authority’s internal provision in relation to Children’s Homes, Residential Short Breaks for Children and Young People with Disabilities and Special Schools.

The demand for placements within children’s social care and education was variable and the type and cost of placements depended upon the individual needs of children and young people. It was therefore difficult to accurately predict future demand. To give an indication of the value of the services, financial information and data from the last three full years was detailed in the report.

External children’s homes represented the most significant area of spend out of the three categories and the number of placements and annual spend had increased over the last three years. One of the main aims of the Transforming Children’s Services Programme was that the number of external children’s home placements would reduce. Although demand was expected to reduce, there would still be some looked after children whose needs could not be met by an in-house foster care placement or by an internal children’s home.

The majority of the Authority’s short break provision was delivered by internal short break units; Heatherfield Mews and Addison Street. Only when they were unable to meet the needs of a child was an external service purchased. The main external provider for the Authority was St Oswald’s Hospice which provided short breaks for children with life limiting conditions for 10 young people. Children accessing St Oswald’s required a level of nursing support that could not be provided by the Authority’s internal services.

The Authority's internal short break provision was currently under review. As part of this process social workers were reassessing all allocated short breaks in order to ascertain whether the short break was still required, to provide challenge where necessary and to assess whether the needs of the young person may be better met by the provision of a personal budget or by the Special Educational Needs and Disabilities Local Offer. Overall demand may therefore reduce but it was likely that in some cases due to the specific needs of a child, the services of an external provider would still be required.

Demand for placements in independent and non-maintained special schools and colleges had remained steady over the last three years. The existing framework agreement would be reviewed as part of this exercise.

The procurement exercise for Phase 1 had been undertaken in 2015 following approval by Cabinet on 9 March 2015. The scope of Phase 1 was placements in Department for Education (DfE) registered non-maintained and independent special schools and colleges for children and young people 0-25 years; day, boarder and full residential placements.

Details of the outcomes delivered under Phase 1 were set out in the report.

In April 2016 an exercise had been held with NE12+ participating organisations to consider the potential scope of Phase 2. It had been agreed that the scope would be the scope for Phase 1 further widened and to include the following categories:

1. Placements in DfE registered non-maintained and independent special schools and colleges for children and young people 0-25 years; day, boarder and full residential placements,
2. Placements in Ofsted registered, independent children's residential homes for children and young people 0-18 years, and
3. Residential short-break services for children and young people with disabilities aged 0-18 years.

The commissioning phase of Phase 2 was in progress and the NE12+ group had commenced a period of consultation with internal and external stakeholders.

Procurement and legal representatives for each of the 12 local authorities were working together to agree an approach for a bespoke regional procurement solution.

It was anticipated that Newcastle City Council as the "Lead Authority" would go out to tender in March/April 2017 to procure the new solution which would commence on 1 September 2017. Full sign-off from each of the participating organisations would be obtained prior to going out to tender, together with approval to proceed from the North East Procurement Organisation (NEPO) Regional Procurement Gateway Panel.

Financial modelling was being undertaken by a member of Newcastle City Council's finance team with the aim of developing capped rates for each type of service which were both advantageous to local authorities and sustainable for providers. The model would consist of a fixed price for a standard placement with an additional menu of services which would allow placements to be tailored to meet individual assessed needs of children and young people.

The financial model would be finalised in February 2017 following consultation and agreement by individual local authorities. The capped rates would be based on analysis of provider cost breakdowns, placement fees paid by authorities, cost breakdowns for internal services and benchmarking with other regional solutions across the country.

The level of any efficiencies would depend on the number of children and young people in placement at the start of the new arrangement and their individual assessed needs. It would also depend on which providers successfully joined the new arrangement and therefore which placements would transition to the new pricing structure. Placements in independent and non-maintained schools and colleges were funded via the Dedicated Schools Grant (DSG) which was ring fenced, so any efficiencies for this element would be reflected in the DSG rather than the General Fund.

The NE12+ authorities were pursuing an arrangement which would enable them to seek a placement internally and if this was not successful to purchase in-house placements from each other prior to seeking a placement from the external market. Under this arrangement if the Authority was unable to identify an internal placement, NE12+ authorities could be approached although would not be obliged to offer a placement. Similarly if the Authority was approached by another NE12+ authority there would be no obligation on the Authority to offer a place to other NE12+ authorities unless there was sufficient capacity available and the Authority consented to the arrangement.

Cabinet considered the following decision options: either to agree the recommendations as set out in section 1.2 of the report, or alternatively to not approve that the Authority participates in the regional procurement exercise.

**Resolved** that (1) the Head of Health, Education, Care and Safeguarding be authorised, in consultation with the Elected Mayor, Cabinet Member for Children, Young People and Learning, Cabinet Member for Finance and Resources, the Head of Finance and the Head of Law and Governance, to proceed with the procurement exercise being led by Newcastle City Council on behalf of NE12+ that will establish a regional arrangement for contracts with children's homes, residential short break providers and non-maintained and independent special schools and colleges; the contract period to be agreed in due course following consultation with legal and procurement representatives from all twelve authorities; and

(2) the Head of Health, Education, Care and Safeguarding be authorised, in consultation with the Head of Finance, the Head of Law and Governance and Cabinet Member for Finance and Resources, to enter into the NE12+ framework agreement following the procurement and subsequent call off contracts under the arrangement.

(Reason for decision – This regional collaborative arrangement is in keeping with regional priorities leading to more efficient service delivery. The Authority will benefit from a standardised and transparent pricing structure, consistency of quality across all providers and a more developed local market which can provide a range of placements to meet the needs of children and young people.)

### **CAB131/02/17 Review of North Tyneside Council Statement of Licensing Policy (Sex Establishments) (All Wards)**

Cabinet considered a report seeking approval to the adoption of the North Tyneside Council's Statement of Licensing Policy (Sex Establishments).

The initial Policy had been adopted on 20 January 2011 following the formal adoption by the Authority of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. In 2010 the 1982 Act had been amended to include a new category of sex establishment, namely a sexual entertainment venue. The Council had adopted Schedule 3 of the 1982 Act in 2011 to enable the Authority to license sexual entertainment venues as well as the existing categories of sex establishments, namely sex shops and sex cinemas.

Although there was no statutory requirement to have a policy concerning the licensing of sex establishments, it had been long established that it was good practice for Licensing Authorities to have a Policy that assisted in the promotion of decision making and informed the licensing trade and the public of the approach of the Licensing Authority to such licensing in its area.

The existing policy included a numerical limit on the number of sexual entertainment venues within a specified area of Whitley Bay, namely the area bordered by Whitley Road, Park Avenue, the Promenade and the Esplanade. That limit had been set as nil, but did not preclude an application for a licence being made within the specified area that would take the number of licences in the area above the set limit. However, in such a situation the presumption would be to refuse such an application and the applicant would have to make their case as to why the licence should be granted in any particular location contrary to the policy which had set the limit in that area as nil.

Since the adoption of Schedule 3 by the Authority, there had been no applications received for a sexual entertainment venue licence. There was currently one licence issued in relation to a sex shop.

There were some statutory exceptions for the need for sexual entertainment to be licensed. For example if sexual entertainment took place in a premises that had the benefit of a Premises Licence issued under the Licensing Act 2003 then, on no more than 11 occasions in a 12 month period, no sexual entertainment licence was required by such premises.

A draft Policy had been prepared and was attached at Appendix 1 to the report. The Policy had been updated to include references to local plans and data. The numerical limit of nil for the specified area of Whitley Bay in relation to sexual entertainment venues had been retained for the purposes of the draft policy and consultees had been specifically asked to comment on this aspect of the Policy.

Details of the consultation process undertaken on the Policy were set out in the report. One response had been received, requesting that an amendment be made to the policy to include the provision for variation applications at paragraph 8.2 to be made in writing. In addition any reference to transitional provisions to be removed from the policy as they were no longer relevant. The Policy had been amended to reflect the comments made.

The fees were reviewed annually against any rise or reduction in the cost of administering the licensing regime and consisted of an application fee and a licence maintenance fee.

Cabinet considered the following decision options: either to agree the recommendation as set out in section 1.2 of the report, or alternatively to not approve the Statement of Licensing Policy (Sex Establishments).

**Resolved** that the adoption of the North Tyneside Council Statement of Licensing Policy (Sex Establishments) be approved.

(Reason for decision – This has been subject to an eight week consultation exercise and at the conclusion of the consultation period no views were expressed objecting to the draft policy or to the limit on the number of sexual entertainment venues for Whitley Bay remaining at nil. The existing Policy is six-years old and needs to be reviewed to ensure that it remains up to date.)

## **CAB132/02/17 North Tyneside Council's Housing Strategy 2016-2021: A Great Place to Live (All Wards)**

Cabinet considered a report seeking approval to the Housing Strategy 2016-2021, A Great Place to Live, which sought to establish the Authority's vision and ambitions for housing in the Borough over the next 5 years.

An Action Plan had been developed alongside the proposed Strategy to enable the Authority to monitor the delivery of its objectives for housing over the lifetime of the Strategy.

The Government had sought to deliver its manifesto pledges relating to housing through a raft of new legislation and by making changes to existing housing and planning policy. As a result the proposed Housing Strategy had been developed at a time of great change and sought to understand how the changes would impact upon housing within the Borough and ensured that the Authority retained the ability to respond to changing Government housing policy.

The proposed Housing Strategy recognised that housing would play an important role in supporting and delivering the regional agenda. The Authority remained engaged with the other North East Authorities and North East Local Enterprise Partnership and continued to work towards delivering collective ambitions to boost the regional economy through job growth, increased investment and improved living standards.

Through a range of evidence and existing corporate strategies and policies the Authority had established its ambitions for housing in North Tyneside. In addition to providing a vision for local housing until 2021, the proposed Housing Strategy sought to reiterate these ambitions and provide a 'blue-print' and strategic platform for realising them. In addition, the proposed Housing Strategy would contribute to the delivery of important elements of the Our North Tyneside Plan and support the Authority's emerging planning policy outlined in the Local Plan.

Development of the proposed Strategy had commenced with a review of existing evidence and emerging housing legislation and policy in June 2015. This included a review of a robust evidence base gathered in relation to the duty to keep housing conditions under review; identifying the successes of the previous housing strategy; and a comprehensive consultation.

This had led to the creation of four distinctive objectives of the proposed Strategy which reflected the wider ambitions of the Authority, as follows:

1. More and Better Homes
2. Great Places To Live
3. Better Housing, Better Health and Wellbeing
4. Better Housing, More Independence

The housing issues relating to each objective were discussed in more detail within the proposed Housing Strategy, attached at Appendix A to the report, and the actions the Authority intended to take to address them were outlined in the associated Action Plan, attached at Appendix B to the report.

The proposed Housing Strategy also established how the Authority would continue to deliver the North Tyneside Homelessness Prevention Strategy 2013 – 2018 and

recognised the role and importance of the Homelessness Prevention Forum in achieving the actions set out in the Homelessness Prevention Strategy Action Plan.

To ensure the effective delivery of the proposed Housing Strategy and associated Action Plan four working groups would be established, comprising relevant Council officers and where possible partners to deliver the actions set out in the Action Plan.

The performance of these working groups and overall progress towards achieving the objectives of the proposed Housing Strategy would be monitored by an overarching Monitoring Group, consisting of the Head of Environment, Housing and Leisure, the Cabinet Member for Housing and Transport and other relevant officers. A progress report would be presented to Cabinet annually.

Cabinet considered the following decision options: either to agree the recommendation as set out in section 1.2 of the report, or alternatively to not approve the adoption of the proposed Housing Strategy, associated Action Plan and governance arrangements.

**Resolved** that the adoption of the proposed North Tyneside Council Housing Strategy 2016-2021: "A Great Place to Live", associated Action Plan and governance arrangements be approved.

(Reason for decision –The adoption of the Housing Strategy and associated Action Plan will ensure that the Authority continues to meet legal obligations in relation to housing whilst establishing a clear vision for housing in the Borough over the next 5 years.)

**CAB133/02/17 Community Infrastructure Levy: Preliminary Draft Charging Schedule (Previous Minute CAB69/10/16) (All Wards)**

Cabinet considered a report seeking approval for the Preliminary Draft Charging Schedule, which was the first stage of public consultation in preparation for the introduction of a Community Infrastructure Levy (CIL).

The CIL was a charge which enabled funds to be raised from new developments to provide supporting infrastructure. Monies raised through CIL could help pay for strategic and local infrastructure such as highways improvements, schools, flood mitigation, leisure facilities and other community facilities to ensure the Borough grew sustainably.

Presently, the Authority sought infrastructure contributions via Section 106 agreements (s106s) set out within the Planning Obligations Supplementary Planning Document (SPD) (LDD8, 2009).

CIL and s106 would operate in parallel within the Borough, although there could be no 'double charging'. A review of LDD8 Planning Obligations SPD would be required alongside preparation of the CIL, to ensure alignment between the use of the CIL and s106 agreements. An update to LDD8 would also reflect the new policy provisions of the emerging Local Plan. As set out within the LDS 2016, a revised LDD8 would be prepared between May and June 2017.

The report summarised the regulations relating to the spending of CIL funds and the preparation and adoption of the CIL. This included two formal consultation stages followed by its testing before an independent Inspector.

The report provided detail relating to the three key pieces of evidence which were required to prepare and adopt the CIL, i.e. an up-to-date Development Plan; an Infrastructure Delivery Plan (IDP); and Viability Assessment Evidence.

The CIL Regulations allowed local authorities to make choices when preparing a Charging Schedule for example about exemptions and instalments. The consultation document would seek views on whether the Authority should have policies on exemptions and instalments policies. Such policies could form part of the Draft Charging Schedule consultation.

The Preliminary Draft Charging Schedule, attached at Appendix 2 to the report, was the document which set out the initial proposals for the CIL for public consultation. It outlined possible charging rates for the CIL. This would not commit the Authority to having a CIL or a particular rate at this stage, but would allow the Authority to collect views of the community and development professionals operating in the Borough. The Authority must take into account the comments it received in response to the Preliminary Draft Charging Schedule to inform its Draft Charging Schedule.

It was not proposed that all current Section 106 contributions were replaced by a CIL charge. Section 106 provided a vital tool to ensure the planning impacts of specific developments had been properly identified and sufficient funding would be available at the right time to address those impacts. Meanwhile the CIL provided a valuable alternative method of achieving funding where more flexibility was required or sufficient funds could not be secured from developments via s106 to deliver an identified infrastructure need.

It was noted that the CIL would not be able to fund all of the Borough's infrastructure requirements. National research suggested that the CIL could contribute to between 5-10% of the total funding required. This would suggest the need for a focussed approach to the use of monies accrued through the CIL, which could be used to:

- Fund specific infrastructure projects.
- Secure match funding as part of a wider capital investment strategy that brought together amongst other things monies secured via Section 278 agreements, capital receipts from the sale of assets, monies secured from business rate retention and grants and prudential borrowing.

In order to continue to secure s106 Agreements, the Authority must have published an Infrastructure List (or Regulation 123 List), which established infrastructure projects that the Authority intended to be funded by the CIL. Infrastructure included in the Regulation 123 List could not also be funded by s106 contributions. If the Authority adopted the CIL and did not publish a Regulation 123 List it could not secure additional planning contributions via s106 agreements.

The Authority was not required to identify its Regulation 123 List to accompany consultation on the Draft Preliminary Charging Schedule but Planning Guidance required that the Authority's Regulation 123 List was based upon the draft list that the Authority prepared for the examination of the Draft Charging Schedule. Identification of a draft list of infrastructure to be funded through the CIL would consequently require agreement by Cabinet during 2017 when it agreed the Draft Charging Schedule.

The Preliminary Draft Charging Schedule would be published for public consultation for six weeks. Any comments received would be taken into account when preparing the Draft Charging Schedule for consideration by Cabinet.

The LDS 2016 identified that the next formal stage in preparation of the CIL, the Draft Charging Schedule (CIL Regulation 16 and 17), would follow in June 2017.

Prior to adoption of the CIL an agreed governance procedure would be necessary as part of the administration of the CIL itself and its subsequent spending. Through 2017 consideration of the appropriate mechanisms for administering the CIL would be made by the Authority's Senior Leadership Team in consultation with the Mayor and Deputy Mayor, Cabinet Member for Housing and Transport and Cabinet Member for Finance and Resources.

Cabinet considered the following decision options:

Option 1: To agree with the recommendations as set out in section 1.2 of the report.

Option 2: To agree with the recommendations set out in section 1.2 of the report but request officers consider alternative proposals for taking CIL forward.

Option 3: To not approve the recommendations as set out in section 1.2 of the report.

**Resolved** that (1) the Community Infrastructure Levy Preliminary Draft Charging Schedule, set out in Appendix 2 to the report, Table 2, be approved for public consultation; (2) the Head of Environment, Housing and Leisure be authorised, in consultation with the Cabinet Member for Housing and Transport, the Deputy Mayor, the Head of Finance and the Head of Law and Governance, to undertake public consultation in relation to the Community Infrastructure Levy Preliminary Draft Charging Schedule; and (3) the Head of Environment, Housing and Leisure be authorised, in consultation with the Cabinet Member for Housing and Transport, the Deputy Mayor, the Cabinet Member for Finance, the Head of Finance and the Head of Law and Governance (through the Local Plan Steering Group) to agree any final amendments as necessary to the consultation documentation in relation to the Preliminary Draft Charging Schedule.

(Reason for decision – The development of a CIL Charging Schedule would enable the Authority to ensure that new development contributes proportionately to strategic infrastructure provision. Changes to the role of s106s now limit the pooling of contributions for the infrastructure needed to support new development.

Failure to develop a CIL Charging Schedule would reduce the Authority's ability to ensure that new development contributes proportionately to infrastructure provision. Failure to adopt a CIL would mean that the Authority would be missing the opportunity to collect contributions and provide benefits to these areas. This would be further curtailed by the limitations associated with the pooling of s106s for the infrastructure needed to support new development.)

#### **CAB134/02/17 Article 4 Direction – Chirton Dene Quays, North Shields (Riverside Ward)**

Cabinet considered a report to determine whether to bring into effect an Article 4(1) Direction (made under Section 3 of the General Permitted Development Order 2015 which would remove some permitted development rights from household properties located at Chirton Dene Quays in North Shields.

The report outlined the planning background to the Chirton Dene Quays development, whereby the Tyne and Wear Development Corporation had attached a planning condition to the application which had removed certain permitted development rights from the

properties, with the aim of preserving the design features of the development. However the permitted development rights were now in effect due to an error in the writing of the original planning condition attached to the planning permission 97/01540/FULUDC and the wording of the restrictive covenant in the Transfer of Sale. This had been compounded by legislative changes in 2015.

Following discovery of the newly acquired permitted development rights, a planning application had been made by the owner of one of the properties that had subsequently been approved, and construction had commenced on the single storey rear extension with balcony, two storey side extension and alterations to the rear fenestration of that property.

Residents at Chirton Dene Quays had been concerned and claimed considerable harm had been caused by the extension due to the visual effect it had on the appearance of the Royal Quays Marina, and had campaigned through their ward Councillor to have the permitted development rights removed, in line with the original intentions of the UDC.

The only way the Authority could now remove those permitted development rights was by implementing an Article 4(1) Direction to remove the permitted development rights again.

The report set out the relevant legislative provisions in relation to this matter. In making a Direction the Authority had to be satisfied that it was expedient that the development that would now benefit from permitted development rights should not be carried out unless planning permission was granted. In reaching this conclusion Cabinet would need to consider whether there was a compelling need for the making of a Direction taking into account the intended use of Article 4 Directions set out in the National Planning Policy Framework.

In this case it was clear that the UDC had intended to remove permitted development rights from the dwelling houses to preserve the uniformity and general appearance of the buildings at Chirton Dene Quays. This had been in place since the construction of the development and as such residents should have been aware that they would be required to apply for planning permission for works that would normally benefit from permitted development.

Specifically at the rear of properties which looked onto the marina this had led to all of the buildings bar one to have a continued uniform appearance, with fenestration and detailing in accordance with the original design of the buildings. Whilst the buildings were of a design which was not uncommon, this part of the Quay was an attractive place which no doubt benefitted from the uniformity brought about by the removal of the permitted development rights.

There had been attempts to apply for planning permission at the rear of buildings at Chirton Dene Quays, and these had been met with resistance from both the Local Planning Authority and from the Planning Inspectorate at appeal.

However, development had now taken place at the rear elevation of a property at Chirton Dene Quays which was significant in altering the uniform building lines at the rear of Chirton Dene Quays. Notwithstanding this, the rear facades of buildings at Chirton Dene Quays still had a largely uniform appearance and fenestration for there to be planning merit in the removal of the permitted development rights at the site. By removing the permitted development rights this would restore the legislative control which the LPA had until 2015.

The report outlined Government advice relating to the use of Article 4 directions and the statutory procedural requirements for making an Article 4 Direction.

Cabinet considered the following decision options:

Option 1: Progress the drafting of a non-immediate Article 4(1) Direction, carry out public consultation to remove permitted development rights under Schedule 2, Part 1, Class A, B and E and Part 2, Class A & B of the Order to household properties at Chirton Dene Quays identified on the map attached to the report at Appendix A and B, and agree to consider a further report following public consultation prior to confirming any Direction.

Option 2: To indicate that it is not considered to be in the public interest to make an Article 4 Direction to remove those permitted development rights.

**Resolved** that (1) the Head of Environment, Housing and Leisure be authorised, in consultation with the Head of Law and Governance, to draft an Article 4(1) Direction and to carry out the required statutory consultation and notification of the Secretary of State, pursuant of Section 3 of General Permitted Development Order 2015; and (2) a further report be submitted to Cabinet following the appropriate consultation to consider whether a direction under Article 4(1) should be confirmed and referred to the Secretary of State.

(Reason for decision: It appears it was the genuine intention of the UDC to remove permitted development rights from the dwelling houses at Chirton Dene Quays. The fact the permitted development rights are now in effect is due an error in the writing of the original planning condition attached to the planning permission 97/01540/FULUDC and the wording of the restrictive covenant in the Transfer of Sale.)

### **CAB135/02/17 Exclusion Resolution**

**Resolved** that under Section 100A (4) of the Local Government Act 1972 (as amended) and having applied a public interest test as defined in Part 2 of Schedule 12A of the Act, the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Act.

### **CAB136/02/17 Delivering Housing Growth through the North Tyneside Trading Company (Previous Minute CAB90/11/16) (All Wards)**

On 14 November 2016 Cabinet had agreed the establishment of two new subsidiary companies of the North Tyneside Trading Company to deliver new homes for commercial sale or market rental. These companies had been created and were to be known as Aurora Properties (Sale) Limited and Aurora Properties (Rental) Limited.

At that meeting, Cabinet had also approved, in principle, Aurora Properties (Sale) Limited carrying out the development of the Northumberland Square site subject to receiving a further report on the scheme once the business case had been fully developed.

The report provided Cabinet with the proposal for Aurora Properties (Sale) Limited to develop the Northumberland Square site, and sought approval for the Business Plan for this development.

The report also sought approval in principle to the development of Wallington Court through Aurora Properties (Sale) Limited and / or Properties (Rental) Limited for residential

purposes and for Cabinet to receive a further report on this scheme once the business case had been fully developed.

Cabinet considered the following decision options: either to agree the recommendations as set out in section 1.2 of the report, or alternatively to not approve the recommendations as set out in section 1.2 of the report.

**Resolved** that (1) the development of the Northumberland Square site in line with the Business Plan attached at Appendix 1 to the report be approved;

(2) the Head of Environment, Housing and Leisure be authorised, in consultation with the Elected Mayor, the Head of Law and Governance and the Head of Finance, to agree minor modifications to the business plan provided it remains within the financial envelope as set out in the report;

(3) it be agreed that the Authority shall provide all necessary support to both Aurora Properties (Sale) Limited and Aurora Properties (Rental) Limited, by way of finance, both debt and equity funding, in the most efficient manner, complying at all times with State Aid legislation in accordance with all relevant legal requirements, the Authority's Constitution and financial regulations in so far as there are no additional financial implications for the Authority which cannot be contained within existing budgets, on such appropriate terms as approved by the Head of Finance in consultation with the Head of Law and Governance;

(4) the Head of Commissioning and Investment be authorised, in consultation with the Elected Mayor, Head of Finance, Head of Law and Governance and the Head of Environment Housing and Leisure to: (a) declare the Northumberland Square site surplus to requirements and deemed suitable to development by Aurora Properties (Sale) Limited; (b) agree the terms of disposal of the site by private treaty; (c) complete negotiations for the sale of the site to Aurora Properties (Sale) Limited in accordance with all relevant legal requirements, the Authority's constitution and financial regulations; and (d) deal with all ancillary matters arising that are consistent with Resolution 4(c) above; and

(5) approval in principle be given to the development of Wallington Court through Aurora Properties (Sale) Limited and / or Aurora Properties (Rental) Limited for residential purposes subject to a business case being approved by Cabinet at a future meeting.

(Reason for decision: This will support the Mayoral priority for the regeneration of North Shields and help meet the Authority's ambition of developing places that people like living in and that will attract others to visit or work there. Building high quality homes for sale is commercially viable and would potentially return a profit to Aurora Properties (Sale) Limited after repayment to the Authority of the loan and associated interest. Aurora Properties (Sale) Limited could then determine how this profit is used. The increase of the supply of market homes will improve and benefit the area and support the local economy.)

### **CAB137/02/17 Street Lighting PFI Special Purpose Vehicle – Project Apollo (All Wards)**

Cabinet considered a report seeking approval to variations to the project agreement and associated matters relating to the Street Lighting PFI contract ('Project Apollo').

The Authority had entered into a street lighting contract with SSE plc in 2004 following an EU competitive process. This was a PFI contract and would terminate in 2029. It was a joint contract with Newcastle City Council and, as part of the process, a Special Purpose Vehicle (SPV) had been established to deliver the services.

The report informed Cabinet of SSE's proposal to sell its shareholding in the SPV which held the Street Lighting PFI contract and detailed the amendments to the Project Agreement to effect the sale of shares.

Over the course of the PFI, 80% of lighting columns had been replaced and lighting standards across the portfolio had been improved. Since 2014, the Authority, working together with SSE, had reduced street lighting electricity consumption by a third through innovations including the 'dimming and trimming' and 'part night switch off' programmes. However, over the past 18-24 months a number of financial disputes had arisen with SSE. The report set out the details of the disputes and a potential resolution through a proposed settlement agreement.

In preparing the report, appropriate external legal and financial advice had been sought and initial opinions had been provided. Details of the financial and legal advice on the sale of shares and proposed amendments to the Project Agreement had been provided to Cabinet in advance of the meeting.

Cabinet considered the following decision options: either to agree the recommendations as set out in section 1.2 of the report, or alternatively to not approve the recommendations and refer the matter back to Officers for further consideration and negotiation.

**Resolved** that (1) the proposed disposal of the share holding within the Special Purpose Vehicle as detailed in the report and the consequential contract changes that will be required to the Project Agreement, be noted;  
(2) the Head of Commercial and Business Redesign be authorised, in consultation with the Head of Law and Governance, the Head of Finance, the Head of Environment, Housing and Leisure and the Cabinet Member for Environment, to negotiate and agree the proposed amendments to the Project Agreement and associated documents;  
(3) the Head of Law and Governance be authorised, in consultation with the Head of Commercial and Business Redesign, the Head of Finance, the Head of Environment, Housing and Leisure and the Cabinet Member for Environment, to implement the changes to the Project Agreement and associated documents referred to at Resolution 2 above;  
(4) the contractual disputes which have arisen, as detailed in the report, be noted;  
(5) the Head of Commercial and Business Redesign be authorised, in consultation with the Head of Law and Governance, the Head of Finance and the Cabinet Member for Environment, to negotiate the terms of the proposed settlement agreement relating to the contractual disputes; and  
(6) the Head of Law and Governance be authorised, in consultation with Head of Commercial and Business Redesign, the Head of Finance, the Head of Environment, Housing and Leisure and the Cabinet Member for Environment, to enter into the settlement agreement referred to at Resolution 5 above.

(Reason for decision: The disposal of the shareholding within the SPV is conditional upon the Authority consenting to variations to the Project Agreement (and associated documents). Initial legal and financial advice suggests the Authority would not be placed in a financially worse position by agreeing to this transaction. The advice received also suggests that there is no opportunity for the Authority to improve its financial position as a result of this transaction and the amendments to the Project Agreement are merely consequential to effect the sale of the shares.

The contractual disputes detailed in the report are historic issues that need to be resolved. Failure to reach agreement would result in a dispute resolution process. This would carry with it significant litigation risk and legal costs, it is considered unlikely that any outcome would improve the current negotiated settlement position.)

**CAB138/02/17 Date and Time of Next Meetings**

Monday 20 February 2017 at 6.00pm (Extraordinary Meeting) – if required as part of budget setting process

Monday 13 March 2017 at 4.00pm (Ordinary Meeting)

**Minutes published on 16 February 2017.**

**The decisions contained within these Minutes may be implemented (unless called in by 3 Non-Executive Members for consideration by the Overview, Scrutiny and Policy Development Committee) immediately following the expiry of the call-in period; i.e. 5.00pm on 23 February 2017.**