

## **NORTHUMBERLAND COUNTY COUNCIL**

### **CABINET**

At a meeting of the **Cabinet** held at County Hall, Morpeth on Tuesday, 7 June 2022 at 10.00 am.

### **PRESENT**

Councillor G. Sanderson  
(Leader of the Council, in the Chair)

### **CABINET MEMBERS**

Horncastle, C.	Riddle, J.R.
Pattison, W.	Watson, J.G.
Renner-Thompson, G.	Wearmouth, R.

### **OTHER MEMBERS**

Stewart, G.	Seymour, C.
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### **OFFICERS IN ATTENDANCE**

Baker, M.	Service Director, Climate Change, Business Intelligence and Performance
Binjal, S.	Interim Monitoring Officer
Bradley, N.	Director of Adult Social Services
Hadfield, K.	Democratic and Electoral Services Manager
Hunter, P.	Interim Senior Service Director
Johnston, N.	Project Manager, Climate Change
Jones, P.	Service Director, Local Services
Kingham, A.	Interim Joint Director of Children's Services
Murfin, R.	Interim Executive Director of Planning and Local Services
O'Farrell, R.	Interim Executive Director of Place and Regeneration
Reiter, G.	Interim Joint Director of Children's

Ch.'s Initials.....

Roll, J.	Services Head of Democratic and Electoral Services
Taylor, M.	Interim Executive Director for Communities and Business Development
Willis, J.	Interim Executive Director of Finance and S151 Officer

## 6. APOLOGIES FOR ABSENCE

Apologies were received from Councillor Ploszaj.

## 7. MINUTES

**RESOLVED** that the minutes of the following meetings of Cabinet, as circulated, be confirmed as a true record and signed by the Chair:-

- (a) Tuesday 26 April 2022
- (b) Tuesday 10 May 2022

## 8. REPORT OF THE LEADER AND DEPUTY LEADER (PORTFOLIO HOLDER FOR FINANCE AND GOVERNANCE AND CORPORATE SERVICES)

### **Statutory Report of the Chief Finance Officer – S.114a Local Government Finance Act 1988**

The Chief Finance Officer of the Council, appointed under S.151 of the Local Government Act 1972, had issued a formal report to members of the Council on 23 May 2022. The report identified two related areas of unlawful expenditure. The first, relating to participation in the Northumbria International Alliance consultancy business, was an executive function. The other, relating to an allowance paid to the Chief Executive, was a non-executive matter as it related to staff.

The purpose of the report was to formally place the Chief Finance Officer's report before the Cabinet and to invite the Cabinet to accept both the contents and the recommendations made in the report, which was attached to the report as Appendix 1 (copy attached to the signed minutes as Appendix A).

The S151 Officer introduced her report, highlighting the key points. She was aware that a further letter had been circulated to members from the Chief Executive but this did not change her view that the Council had acted ultra vires. However, she had asked the QC to review that further information. She also explained to members the background to the provision of the Nick Grubeck advice, which had not been a formal written opinion. He had

outlined a potential argument which she had shared with the external auditor, who felt it was a tenuous argument. Therefore a full legal opinion had been commissioned from Nigel Giffin QC.

Councillor Wearmouth thanked the S151 Officer and her team for their work on this. He hoped Cabinet would adopt the recommendations and stressed that lessons had to be learned.

A number of points were made by members including:-

- Councillor Riddle commented that members had been asking for information about the international business but it had never been properly provided. He asked whether the Council had made any money out of the business. The S151 Officer replied that a summary of historical information had been shared with Audit Committee last Summer. This had been a huge task to pull together because financial records had not been complete and there were no contemporaneous records of officer time spent on the business. The information had been validated by external audit and it suggested that the Council had made around £800,000 from 2017 to the end of the 2020-21 financial year.
- Councillor Watson asked whether there was any tax liability on whatever had been made. The S151 Officer replied that other work was needed to establish the tax position and to put matters right. Discussions would be needed with HMRC to establish whether there was any tax liability. However, she felt this was unlikely as the company had not lawfully been established as a legal entity. Other Councils which had been in a similar position had voluntarily paid the corporation tax that would have been due and this would be considered, but it would be difficult because the exact trading position had not been able to be established.
- Councillor Pattison asked why it was not possible to track payments in and out as this were basic accounting requirements. The S151 Officer replied that there were partial records and she knew some staff had been working on the international business so it had been possible to estimate their costs, but there were wider costs from other staff which hadn't been captured such as those providing financial or legal advice to the business. There were also issues around where certain expenditure had been coded.
- Councillor Renner Thompson commented that he had raised questions about this last year. Whoever had been running this company had been unable to produce a balance sheet and profit and loss account which any business should be able to do. The S151 Officer replied that if it had been a separate legal entity then it would have had a balance sheet and profit and loss account. There should also have been a service level agreement for the work being done by NCC staff and there were no internal trading accounts being maintained to ensure transparency.
- Councillor Horncastle asked when the relationship with the NHS Trust ended and what had the financial arrangement been with them. Had

they received some of the profit made and contributed to officer costs? The S151 Officer advised that she couldn't give a full answer as further work was needed. She believed the Trust had withdrawn formally in 2020 but she understood they had taken a backward step some time prior to that and the Council had assumed the primary role.

- Councillor Wearmouth asked when the business had come into being and how that had happened. What process had been undertaken? The S151 Officer replied that the first discussions took place in 2016 and there had been an approach from UK Trade and Investment to the Trust and the Council. When the Council had started considering entering into contracts she would have expected formal decisions to have been made then, but she could find no record of this. It all seemed to have been done informally though there had been briefings for members.
- Councillor Wearmouth asked what checks and balances had been put in place to prevent any further unlawful activity. He sought assurance that any contracts entered into by the Council were subject to proper legal checks, and that when members asked questions they would get answers to them as this had not been the case previously. The S151 Officer replied that one of the reasons it was important for formal decisions to be taken was so that formal legal and financial advice was transparent. She could not find any evidence that the previous MO or S151 Officer had given advice to members which was of concern. Going forward, it needed to be very clear that formal decisions were needed in the light of professional advice.
- Councillor Watson asked if there were any other penalties the Council could face. The S151 Officer advised that the contracts had been performed satisfactorily. She didn't believe the Council had incurred any financial loss and the position had been regularised with the establishment of a company. Other than working through the potential tax implications, she did not envisage any significant risks other than the reputational damage which had been done.

The Leader made some closing remarks. He assured the meeting that appropriate action would be taken with a full independent investigation and he thanked officers for their work on this. He moved the report's recommendations, which were seconded by Councillor Riddle.

**RESOLVED** that:-

- (a) the Statutory Report (dated 23 May 2022) under S114A of the Local Government Finance Act 1988 be received and Cabinet confirm that it agrees with its contents in relation to executive functions of the Council, attached as Appendix 1 to the report;
- (b) the recommendations set out in section 6.1 of the Statutory Report attached at appendix 1 be confirmed;
- (c) authority be delegated to the Monitoring Officer and Chief Finance Officer to review and formulate a scheme of executive delegation to

ensure openness, transparency, and accountability for executive functions of the Council and to present a report to Cabinet setting out proposals to achieve this by no later than September 2022; and

- (d) Cabinet refer to the Employment (Appeals) Committee (EAC) of the Council the question of who knew what, when and why the professional advice received in 2019 to form a company was not acted upon. It will be for the EAC to form a view as to whether there is any question of discipline or capability relating to any officer (or former officer) of the Council which requires investigation, disciplinary or other action. Should the EAC determine that there may have been misconduct by any member of the Council, it will be for the EAC to make an appropriate reference under the Member Code of Conduct, in accordance with the Council's arrangements.

## **9. REPORT OF THE INTERIM EXECUTIVE DIRECTOR OF PLANNING AND LOCAL SERVICES**

### **Northumberland Waste Management Strategy – Proposed Food Waste Recycling Pilot Schemes**

The report advised Cabinet of future obligations to offer food waste collections to households arising from the Environment Act 2021 and sought approval for a weekly household food waste collection pilot scheme to assess the viability of collections across Northumberland, together with a home food waste composting pilot scheme to consider potential options in rural areas where weekly food waste collections may not be practicable or affordable.

The report highlighted the importance of the Council gaining an understanding of the financial, social, human resource and environmental implications of delivering a new food waste recycling service across the whole County when Government funding became available around 2024/25 (copy attached to the signed minutes as Appendix B).

The report was introduced by Councillor Riddle and Paul Jones detailed the key points. A number of questions were asked including:-

- There were concerns about the space available for the different types of recycling bins, especially at terraced properties, and the potential for birds etc to disturb bagged waste at coastal locations. Mr Jones replied that more recycling inevitably meant more segregation and more containers. As part of the pilot, some households had been selected which were already on glass collection so officers could see how households performed when they had the fuller range of activity. Efforts were also being made to accommodate as much of the different recyclable material as possible into the mixed recycling bin. Food waste containers would be lidded.

- Would members receive regular feedback? Mr Jones advised that performance would be monitored closely and feedback provided to Scrutiny and Cabinet before the end of the pilot.

**RESOLVED** that:-

- (a) Cabinet note the content of the report including key learning objectives of the pilot schemes and the features of the collection and treatment systems to be deployed;
- (b) Cabinet approve the commencement of a 10-month, kerbside food waste collection pilot scheme at approximately 4,800 properties as detailed in the report and commit £43,000 capital and £128,000 non-recurrent revenue funding already allocated in the Council's Medium Term Financial Plan to fund the scheme;
- (c) Cabinet approve the commencement of a home food waste composting pilot scheme for approximately 90 households located at three rural settlements as detailed in the report, and commit £18,000 from the Climate Change Capital Fund to fund the purchase of the units; and
- (d) Cabinet note that the findings of both pilot schemes will be reported to Cabinet early in 2023/24.

**10. JOINT REPORT OF THE SERVICE DIRECTOR FOR CLIMATE CHANGE, BUSINESS INTELLIGENCE AND CORPORATE PERFORMANCE AND THE SERVICE DIRECTOR FOR LOCAL SERVICES**

**Electric Vehicle Charging Strategy 2022-25**

The report proposed a strategy for funding, siting, installing and maintaining electric vehicle charge points for the next three years starting in the financial year 2022/23 (copy attached to the signed minutes as Appendix C).

The report was introduced by the Leader who highlighted that the Council was now the highest achieving authority in England in rolling out electric vehicle chargers, which was excellent.

Matt Baker took members through the report which detailed how the rollout would be accelerated.

A number of points were raised including:-

- The installation of a fast charger in Bellingham was welcomed as it was a tourist area.
- There were some issues around chargers being blocked. Mr Baker advised that this was a common issue and there was no easy answer,

other than to perhaps charge for length of time instead of amount of power. It was suggested that a report be submitted on the options.

- The installation of EV charging points in new car parks, and that Council staff were now installing them, was welcomed.

**RESOLVED** that:-

- (a) Cabinet approve the strategic intention to prioritise residents who park on-street as the primary target market for future electric vehicle charge points and the hierarchy for site selection;
- (b) Cabinet approve the intention to bid to ORCS for funding for 75 'on street' EVCP units (150 EVCP sockets), a bid value £367,200, which it is proposed to match fund by £244,800 from the 2022/23 NCC Capital Programme;
- (c) Cabinet approve the capital match funding allocation of £244,800. This funding is contained within the 2022/23 approved Capital Programme; Local Services EV Charging Fund (£200,000) and the Climate Change Capital Fund (£44,800);
- (d) Cabinet approve capital funding of £95,880 from the Climate Change Capital Fund to fully fund the installation of an additional 2 rapid EVCPs at Berwick and Haltwhistle and 1 fast charger at Seahouses car park to improve provision for visitors in areas of known high demand. This funding is contained within the 2022/23 approved Capital Programme; Climate Change Capital Fund. These EVCPs would not be eligible for grant funding support under current Government funding schemes;
- (e) the Service Director for Local Services be authorised, in consultation with the Cabinet Member for Environment and Local Services, to make in-year adjustments to the tariff, should this be considered necessary in response to changes to electricity prices, cost of materials or labour so that the income generated from charges covers running costs and there is no additional revenue budget requirement; and
- (f) Cabinet approve the commitment to install EV chargers in any new or expanded car parks as part of the capital budget of that project covering a minimum 5% of parking bays.

**11. REPORT OF THE INTERIM EXECUTIVE DIRECTOR OF FINANCE AND S151 OFFICER**

**Financial Performance 2021-22 – Provisional Outturn 2021-22**

The report provided members of the Cabinet with the Council's 2021-22 provisional outturn position for the Revenue and Capital budgets, and the

Housing Revenue Account, and detailed the movement in reserves and provisions (copy attached to the signed minutes as Appendix D).

The report was introduced by Councillor Wearmouth who highlighted the strong performance and the projected underspend of £14.5m, the reasons for which were set out in the report.

Mrs Willis added that in addition to the general fund underspend, there would be a carry over of £2m outbreak funding for those disproportionately affected by Covid. She also stressed that this was the provisional position which was subject to further adjustment and any audit adjustments. Currently there was £328.6m in reserves but she warned of rising inflation and increasing demand for services. Recruitment and retention was also a growing problem, but overall the Council was in a financially strong position.

Members welcomed the report and the strong financial performance.

**RESOLVED** that:-

- (a) Cabinet note the report;
- (b) Cabinet note the projected underspend of £14.518 million;
- (c) Cabinet note the pressures currently identified, including the impact of Covid-19 (Table at 6.1), plus additional £7.314 million Covid-19 related expenditure funded from the Contain Outbreak Management Fund (Table at 6.3);
- (d) Cabinet approve re-profiling to the Capital Programme of £31.481 million from 2021-22 to 2022-23 to reflect estimated expenditure levels in the current financial year;
- (e) Cabinet approve re-profiling to the Capital Programme of £4.341 million from 2022-23 to 2021-22 to reflect estimated expenditure levels in the current financial year (2022-23 Budget has been agreed by full Council);
- (f) Cabinet approve the reversal of £0.607 million from the NHS Partnership Agreement Reserve to the Strategic Management Reserve to fund additional costs in 2021-22 and 2022-23;
- (g) Cabinet approve the following which are assumed in the forecast position:
  - o Create a reserve of £2.130 million to carry forward unspent 2021-22 Contain Outbreak Management Fund grant as per the grant conditions. It is proposed that the utilisation of this reserve is delegated to the relevant Executive Director and the Council's Section 151 Officer.



- The use of £0.346 million from the NHS Partnership Agreement reserve to fund the 2021-22 costs relating to additional IT equipment and apprenticeship levy charges;
- (h) Cabinet approve the following use of the underspend:
- Create a reserve for £0.225 million in order to provide increased funding for Highways Maintenance Investment in U and C roads and footways. It is proposed that the utilisation of this reserve is delegated to the relevant Executive Director and the Council's Section 151 Officer.
  - Create a provision for £0.234 million to fund the cost of a claim from a Council contractor in respect of exceptional cost increases. It is proposed that the utilisation of this reserve is delegated to the relevant Executive Director and the Council's Section 151 Officer.
  - Create a reserve for £0.047 million with the surplus generated to date on the Council's Empty Dwelling Management Orders Scheme (EDMO). Any surplus generated at the end of the 7-year term is required to be returned to the private homeowners in line with the Order. It is proposed that the utilisation of this reserve is delegated to the relevant Executive Director and the Council's Section 151 Officer.
  - Top up the Social Fund with the unspent Local Council Tax Support (LCTS) Hardship Funding of £2.308 million to grant further discretionary discounts to working age council tax support claimants in 2022-23.
  - Add £1.000 to the Regeneration Development Reserve in order to enable the continued support of the key economic work of the Council and appropriate external partners, to maximise the benefits of current and future investment opportunities.
  - Increase the Legal Challenges Reserve by £1.257 million in order to fund legal fees required to secure the Council's interests in future and ongoing disputes.
  - Add £1.000 million to the Restructuring Reserve. This reserve will fund the one-off voluntary severance staffing costs required to support the Council's transformation agenda. All costs will be authorised by the relevant Executive Director and the Council's Section 151 Officer with the exception of any packages over £0.100 million which will require full Council approval.
  - Create a reserve of £0.500 million for Recruitment and Retention. It is proposed that the utilisation of this reserve is delegated to the Council's Section 151 Officer.
  - Create a reserve of £0.215 million to fund the transformation for the Revenue and Benefits Service. It is proposed that the utilisation of this reserve is delegated to the Council's Section 151 Officer.
  - Create a reserve of £2.178 million for the cost of repairs following Storm Arwen. This includes £0.156 million in order to fund the remaining highways capital repairs initially identified and £2.022 million to fund those works that have now been identified as outstanding. It is proposed that the utilisation of this reserve is

delegated to the Executive Director of Local Services and the Council's Section 151 Officer.

- Create a reserve of £5.208 million to fund exceptional inflationary pressures in 2022-23. It is proposed that the utilisation of this reserve is delegated to the Council's Section 151 Officer;

- (i) Cabinet note that the underspend will be utilised as follows and there will be no transfer to the General Fund for financial year 2021-22:

	<b>£m</b>
2021-22 Underspend	14.518
<ul style="list-style-type: none"> <li>• Reserve for increase in funding for highways maintenance for U &amp; C roads and footways.</li> </ul>	0.225
<ul style="list-style-type: none"> <li>• Create a provision for a claim for exceptional cost increases</li> </ul>	0.234
<ul style="list-style-type: none"> <li>• Create a reserve for future EDMO costs/return of surplus at end of Order Term</li> </ul>	0.047
<ul style="list-style-type: none"> <li>• Top up Social Fund with LCTS hardship underspend</li> </ul>	2.308
<ul style="list-style-type: none"> <li>• Increase the Regeneration Development Reserve</li> </ul>	1.000
<ul style="list-style-type: none"> <li>• Increase the Legal Challenges Reserve</li> </ul>	1.257
<ul style="list-style-type: none"> <li>• Increase the Restructuring Reserve</li> </ul>	1.000
<ul style="list-style-type: none"> <li>• Create a reserve for Recruitment and Retention</li> </ul>	0.500
<ul style="list-style-type: none"> <li>• Use NHS Partnership Agreement Reserve to fund IT equipment and apprenticeship levy charges</li> </ul>	0.346
<ul style="list-style-type: none"> <li>• Create a reserve for transformation of the Revenue and Benefits Service</li> </ul>	0.215
<ul style="list-style-type: none"> <li>• Create a reserve for the cost of repairs following Storm Arwen</li> </ul>	2.178
<ul style="list-style-type: none"> <li>• Create a reserve to cover exceptional inflationary pressures</li> </ul>	5.208
Balance Available	-

- (j) Cabinet note the balance available may change and is subject to the impact of any technical accounting adjustments required in finalising

the statement of accounts, including the calculation for the outturn of the Collection Fund;

- (k) Cabinet approve any remaining balance, as a result of any technical accounting adjustments required in finalising the statement of accounts, to be transferred to the Council's General Fund (GF);
- (l) Cabinet approve:
  - o an addition of £0.225 million to the 2022-23 Capital Programme to fund additional Highways Investment in U & C roads and footways and that the Executive Director for Local Services and the Cabinet Member for Environment and Local Services agree the detail of the schemes to be funded. This will be funded by a revenue contribution funded by the Highways Maintenance Investments reserve.
  - o an addition of £0.296 million to the Capital Programme to fund further works repairing the damage to the highways network caused by Storm Arwen to be funded from the Storm Arwen reserve;
- (m) Cabinet approve the new grants and amendments to existing grants at Appendix A and the required changes to the budgets;
- (n) Cabinet note the delivery of the approved savings at Appendix B;
- (o) Cabinet note the use of the contingency shown at Appendix Q;
- (p) Cabinet note the estimated level of reserves at 31 March 2022 is £328.582 million as detailed in Appendix R;
- (q) Cabinet note the estimated level of provisions at 31 March 2022 is £6.703 million as detailed in Appendix R;
- (r) Cabinet approve the virements requested by services shown at Appendix S; and
- (s) Cabinet authorise the Interim Executive Director of Finance (Section 151 Officer), in consultation with the Portfolio Holder for Corporate Services, to finalise the outturn figures once the Statement of Accounts has been prepared and the external audit has been concluded.

## **12. REPORT OF THE INTERIM EXECUTIVE DIRECTOR OF FINANCE AND S151 OFFICER**

### **Summary of New Capital Proposals considered by Officer Capital Strategy Group**

The report summarised proposed amendments to the Capital Programme considered by the officer Capital Strategy Group via email on 6 May 2022 (copy attached to the signed minutes as Appendix E).

**RESOLVED** that:-

**Felton HUSK Bungalow Scheme:**

Cabinet approve a scheme to deliver affordable housing in Felton by redeveloping an NCC garage site into 5 new 2 bedroom bungalow units using the HUSK construction method at a cost of £695,090 with the funding as shown in paragraph 5.6, noting that this is subject to a successful funding application to Homes England.

**13. EXCLUSION OF PRESS AND PUBLIC**

**RESOLVED**

- (a) That under Section 100A (4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of the following items on the Agenda as they involve the likely disclosure of exempt information as defined in Part I of Schedule 12A of the 1972 Act, and
- (b) That the public interest in maintaining the exemption outweighs the public interest in disclosure for the following reasons:-

**Agenda Item      Paragraph of Part I of Schedule 12A**

11-12              3- Information relating to the financial or business affairs of any particular person (including the authority holding that information)

**AND**              The public interest in maintaining this exemption outweighs the public interest in disclosure because disclosure could adversely affect the business reputation or confidence in the person /organisation and could adversely affect commercial revenue (item 11), and disclosure would have an adverse effect on the ability of the purchaser to negotiate leases (Item 12).

**14. REPORT OF THE INTERIM EXECUTIVE DIRECTOR OF FINANCE AND S151 OFFICER**

**Trading Companies' Financial Performance 2021-22 - Position at the end of March 2022**

The report informed Cabinet of the current financial positions of its trading companies and of any relevant issues arising (copy attached to the signed minutes as Appendix F, coloured pink and marked Not for Publication”).

**RESOLVED** that the recommendations detailed in paragraph 2.1 (a-c) of the report be agreed.

**15. REPORT OF THE ACTING DEPUTY CHIEF EXECUTIVE**

**Arrangements for Future Disposals of Land at East Sleekburn**

The report updated members on the progress of the British Volt project, and sought approval for proposed arrangements for the future disposed of land required for the development of the British Volt Supplier Park (copy attached to the signed minutes as Appendix G, coloured pink and marked Not for Publication”).

**RESOLVED** that the recommendations detailed in paragraphs 2.1- 2.6 of the report be agreed.

**CHAIR.....**

**DATE.....**