

## **CABINET, Monday, 11th December, 2023**

**PRESENT:** Councillor Scullion (Chair)

Councillors: T Swift MBE, Courtney, Dacre, Fenton-Glynn, Lynn, Patient and Wilkinson

### **SUBSTITUTES PRESENT**

Councillors:

#### **74 APOLOGIES FOR ABSENCE**

There were no apologies for absence received.

*Councillor Swift MBE left the meeting at 15:50.*

*(The meeting closed at 16:38).*

#### **75 MINUTES OF THE MEETING HELD ON THE 13TH NOVEMBER 2023**

**RESOLVED** that the Minutes of the meeting held on 13<sup>th</sup> November 2023 be approved as a correct record and signed by the Chair.

#### **76 QUESTION TIME**

The Leader, Councillor Scullion, invited members of the public and Councillors to ask questions of the Leader and of the other Cabinet Members. An oral response would, if possible, be provided at the meeting, but if this was not possible a written response would be provided to the questioner within 7 working days. The full details of questions asked, and answers provided would also be published on the Council's website.

- (a) A question was asked by Mr Philip White in relation to Council Tax.

Councillor Dacre, Cabinet Member with responsibility for Resources responded and advised that written response would be provided.

- (b) A question was asked by Councillor Bellenger in relation to Energy Supplier costs.

Councillor Dacre, Cabinet Member with responsibility for Resources responded and advised that a written response would be provided.

- (c) A question was asked by Councillor Leigh MBE in relation to the context of the Council's Budget.

The Leader, Councillor Scullion responded and advised that a written response would be provided.

- (d) A question was asked by Councillor Blagbrough in relation to the recruitment freeze.

Councillor Dacre, Cabinet Member with responsibility for Resources responded and advised that a written response would be provided.

- (e) A question was asked by Councillor Issott in relation to bus service improvements.

Councillor Patient, Cabinet Member with responsibility for Climate Action, Active Travel and Housing responded and advised that a written response would be provided.

- (f) A question was asked by Councillor Dickenson in relation to the Section 106 Agreement.

The Leader, Councillor Scullion responded and advised that a written response would be provided.

- (g) A question was asked by Councillor Hey in relation to planning applications received following the Local Plan.

The Leader, Councillor Scullion advised that in terms of affordable housing, unless it was a Council or Housing Association project, it would fall within the private sector housing and was not necessarily on site. The Leader advised that in order to get affordable housing there would have to be private housing first. The Leader noted that the Local Plan was being challenged on a narrow point and that both Calderdale Council and the Secretary of State were resisting the challenge and she advised that should the challenge be successful it was not a guarantee that the Plan would be quashed.

The Leader advised that Green Belt designation did not protect works that did not require planning and that the outcome of the legal challenge would not have any bearing in terms of clearance works. It was noted that significant works such as levelling land would require planning permission but it was not expected those types of works would begin ahead of planning permission being granted.

## **77 TO RECEIVE REPORTS FROM SCRUTINY BOARDS**

No reports were received from Scrutiny Boards.

## **78 IMPROVEMENTS TO THE CALDERDALE CARE LEAVERS OFFER AND CONSIDERATION OF PROTECTED CHARACTERISTIC STATUS**

Councillor Wilkinson, Cabinet Member with responsibility for Children and Young People's Services submitted a report of the Director, Children and Young People's Services which sought consideration of improvements to the Calderdale Care Leavers Offer and consideration of Protected Characteristic Status. As Corporate Parents, Elected Members had a collective responsibility for providing the best possible care and opportunities for children in our care and care leavers. The report set out the commitment of Calderdale Council to treat our care leavers as we would our own children as they reach independence. This was in line with the Council's priority to tackle inequalities and to meet its Vision 2024 aims of kindness and

resilience. The Council had refreshed the 'Promise' to our care leavers during care leavers week in October 2023.

Calderdale Council was acting on suggested improvements from a visit from Mark Riddell, the National Department for Education's Care Leaver Adviser. Many care experienced people faced discrimination, stigma, and prejudice in their day to day lives. The report asked the Council to consider reducing this discrimination by recognising care experience as a protected characteristic. Cabinet was requested to consider whether services and policies made and adopted by the Council should be assessed through Equality Impact Assessments and the impact this could have in relation to care leavers. This would determine the impact of changes on people with care experience, alongside those who formally shared a protected characteristic.

The report outlined background information, options considered, financial, legal, human resources and organisational development, environmental, health and economic implications.

During discussions Members welcomed the report and shared their pride that the Authority was recognising the care experience as a protected characteristic.

**RESOLVED** that the 'care experienced' as a protected characteristic be recognised.

## **79 ENDORSEMENT OF CALDERDALE'S CLIMATE ACTION PLAN**

Councillor Patient, Cabinet Member with responsibility for Climate Action, Active Travel and Housing submitted a report of the Director, Public Health which sought endorsement of Calderdale's Climate Action Plan (the Plan) and recommended that it be endorsed by full Council for the Council to consider how it could contribute to the success of the Plan. The Plan focused on the actions that needed to be taken over the next three years (2023 – 2026) to meet the Borough's net zero target by 2038. Climate action was one of the Council's corporate priorities in line with the declaration of a climate emergency in 2019.

The Plan had been developed by the multi-agency Climate Action Partnership (the Partnership); a group made up of cross-party councillors; partners including Together Housing and the NHS; and activist groups such as Calderdale Green New Deal. Council Officers had supported the Partnership through administration of meetings and in writing the Plan, based on their input. There were six themes within the Plan: Influencing, Community Climate Action, Green Economy, Warm and Resilient Buildings, Transport and Getting Around, and Land and Nature. Each theme contained actions which required work from multiple stakeholders across the Borough. The delivery and success of the Plan would be based on forming partnerships and undertaking a multi-agency approach.

The report outlined background information, options considered, financial, legal, human resources and organisational development, environmental, health and economic implications.

During discussions Members welcomed the report and supported the Climate Action Plan. Members were pleased that Calderdale was showing leadership in what was one of the most important issues of our lifetime, and noted the cross over in other aspects of work that the Council was working towards. For example, working with

Housing Associations in respect of retrofitting properties to help with Climate Change, that in turn would also have an impact on reducing energy costs and support the Council's Anti-Poverty Action Plan.

**\*RESOLVED that it be recommended to Council that Calderdale's Climate Action Plan be endorsed in line with the Council's declaration of a climate emergency in 2019; the 2023 Environmental Policy Statement and the Council's target to reach net zero by 2038.**

**80 PHASE 3C PUBLIC SECTOR DECARBONISATION SCHEME (PSDS)**

Councillor Patient, Cabinet Member with responsibility for Climate Action, Active Travel and Housing submitted a written report of the Director, Regeneration and Strategy which sought support for a bid submitted to Phase 3c of the Public Sector Decarbonisation Scheme (PSDS) for a grant of £1,610,236, which required match funding of £420,392, as part of a total project cost of £2,030,628, to undertake decarbonisation schemes at Victoria Theatre, Halifax Borough Market and Beechwood Library. On 17<sup>th</sup> January 2022, when considering the corporate estate capital investment requirements, Cabinet recommended that separate business cases for carbon reduction schemes should be submitted for approval by Cabinet and Council when available.

The report had significant financial implications, which go beyond Officers' delegated authority. The project would deliver a saving of 247 tonnes CO<sub>2</sub>e per year facilitating progress towards the Council's target of net zero by 2038. Cabinet approval was required prior to the acceptance of the funding, signing the grant agreement, and spending the grant, should the bid be approved.

The report outlined background information, options considered, financial, legal, human resources and organisational development, environmental, health and economic implications.

**RESOLVED that it be recommended to the Council that subject to approval of the bid:**

**(a) the replacement of the heating systems at Victoria Theatre, Halifax Borough Market and Beechwood Library with low carbon alternatives, as detailed in the Director, Regeneration and Strategy's written report be approved;**

**(b) the sum of £2,030,628 be incorporated into the Council's Capital Programme to deliver the Public Sector Decarbonisation scheme;**

**(c) the match funding of £420,392 to deliver the scheme be provided as part of the Budget Process for 2024/25;**

**(d) the Director, Regeneration and Strategy, be given delegated authority, in consultation with the Head of Legal and Democratic Services, to finalise and agree the terms of the grant; and**

**(e) in the event of the bid being unsuccessful the requirement for capital funding to progress the projects form part of the request for capital funding in respect of the Corporate Estate.**

**81 ANTI-POVERTY ANNUAL REPORT 2023**

Councillor Lynn, Cabinet Member with responsibility for Public Services and Communities submitted a written report of the Director, Public Services which sought approval of the Anti-poverty Annual Report 2023. The report had been prepared to update Members on the work that had been undertaken across the Borough by the Council and its partners in the key areas of activity. The report included statistical data on key issues and vulnerable groups, the role of data in tackling poverty and six case studies. The updated action plan represented a partnership response to poverty and the cost-of-living crisis. The delivery of agreed actions was key to achieving our Vision 2024 and reducing inequalities, a key priority set out in our Corporate Plan. The cost-of-living crisis now sat within this priority.

The report outlined background information, options considered, financial, legal, human resources and organisational development, environmental, health and economic implications.

During discussions Members paid tribute to those working within the voluntary sector who supported people and families during difficult and uncertain times. Members welcomed the report and the work of Officers, colleagues and partners. Members noted that the report identified that more people were hitting crisis point than in previous years, and that it would be a challenging environment in the coming years and shared the importance of the Anti-poverty Action Plan.

**RESOLVED** that:

(a) the work of the Anti-Poverty Steering Group be continued for a further 12 months; and

(b) Officers be requested to review and update the relevant sections of the action plan regularly over the next 12 months to ensure that resources were focused where they would have greatest impact on the people who were in greatest need, particularly in response to the cost-of-living crisis.

**82 2023 ANNUAL HEALTH AND SAFETY REPORT FOR CALDERDALE MBC**

Councillor Dacre, Cabinet Member with responsibility for Resources submitted a written report of the Head of Human Resources and Organisational Development which sought approval of the 2023 Annual Health and Safety Report for Calderdale Metropolitan Borough Council. The report was submitted so that Members were able to satisfy themselves that the Council's health and safety arrangements and operational plans were both adequate and robust at this current time. Members should be confident that comprehensive arrangements were in place and that the Health and Safety team continued to perform the fundamentals of good Health and Safety practice well.

The Health and Safety team had been confirmed as providing 'Substantial Assurance' to the Council's internal auditors as part of an assurance exercise undertaken in this latest period. Health and Safety was a statutory requirement that all Members and Officers in the Council must give a high priority and embed in all

decision making. Health and Safety must continue to be a priority for the organisation.

Calderdale Council was committed to ensuring the health, safety, security, and welfare of all its employees and those who may be affected by the Council's activities, whilst adopting a 'sensible and proportionate' approach. The Council's overarching Health and Safety Policy underpinned the current safety arrangements, policies and guidance and formed the basis for the development of all new Health and Safety related safe working arrangements. The Council's Health and Safety team undertook a robust programme of work each year to ensure continuous improvement and meet the legal responsibilities under the Health and Safety at Work Act 1974. The report summarised the extent to which the Council continued to meet these legal responsibilities, whilst providing a framework to update Members of key Health and Safety initiatives which drove continuous improvement. In the last reporting period, the Council saw a reduction in the HSE reportable accident rate, as well as a reduction in the overall employee and pupil accident rates. The number of public accidents remained the same and low. Further statistical information can be found in Appendix 1 of the report.

The report outlined background information, options considered, financial, legal, human resources and organisational development, environmental, health and economic implications.

During discussions Members welcomed the report and thanked Officers for bringing forward a detailed report.

**RESOLVED** that:

(a) the robust health and safety arrangements in place to manage Health and Safety across Calderdale be noted; and

(b) the new five-year strategy for Health and Safety, 'ACTION 2028' outlined in Appendix 2 of the Head of Human Resources and Organisation Development's written report be approved and endorsed.

## **83 2023/24 HALF YEAR PERFORMANCE REVIEW**

Councillor Dacre, Cabinet Member with responsibility for resources presented a written report of the Director, Resources and Transformation on the 2023/24 Half Year Performance Review. Calderdale Council was committed to delivering our Vision 2024 and three strategic priorities to reduce inequalities, develop thriving towns and tackle the climate emergency. Our ability to deliver change and meet current and future challenges and improve the lives of our residents, businesses, and visitors was evidenced within our corporate performance framework. The Council's performance framework underpinned its work against these priorities to improving the lives of residents and supporting progress towards Vision 2024. As the Performance Review's final year was approached, it would remain a key tool for tracking delivery of current and future Vision for Calderdale.

There had been many significant challenges in recent years including continued unprecedented cost of living rises, sustained budget pressure on local authority finances nationally, with reference to Adult's and Children's Social Care cost of

demand, and other economic/geopolitical challenges facing residents. It was therefore important to reflect on how well we had performed as a Council in meeting these pressures in the first half of 2023/24. More importantly it served as a baseline to inform areas of focus for the remainder of this financial year and beyond, to address new and emerging challenges going forward and identify improvements to our approach. Cabinet received a half yearly progress report which summarised the performance to date against these priorities and updated the Council's corporate performance for the period April – September 2023 inclusive.

The report outlined background information, options considered, financial, legal, human resources and organisational development, environmental, health and economic implications.

Councillor Wilkinson, Cabinet Member with responsibility for Children and Young People's Services acknowledged the improvements of Key Stage 2 figures which was impressive given the challenges faced by schools over the past number of years and noted that Calderdale was outperforming neighbouring Council's and had also improved nationally.

**RESOLVED** that:

(a) the current performance of the Council to date this financial year and action(s) to improve performance be noted; and

(b) the report be referred to the Strategy and Performance Scrutiny Board for consideration.

## **84 BUS REFORM CONSULTATION RESPONSE**

Councillor Patient, Cabinet Member with responsibility for Climate Action, Active Travel and Housing submitted a written report of the Director, Regeneration and Strategy which sought consideration of the Bus Reform Consultation responses and to agree the Council's position and response to the consultation recognising Calderdale Council was a statutory consultee and strategic partner. As such the response formed a key element of the consultation. The West Yorkshire Combined Authority (WYCA) had commenced public consultation on the Bus Reform proposals for West Yorkshire - 'Bus Reform: Have your say on how buses are run in West Yorkshire'. A decision was required on how Calderdale Council should respond to the consultation as a statutory consultee.

The report outlined background information, options considered, financial, legal, human resources and organisational development, environmental, health and economic implications.

During discussions Members welcomed the report and shared their support for the West Yorkshire Mayor, Tracy Brabin's proposal for Bus Reform and franchising to allow for greater control of bus services. Members confirmed that they had considered the financial aspects of franchising given the current financial situation and the length of time it would take to put the franchising arrangements in place. Members advised that through franchising, and having control of the Farebox would provide stability for when bus companies were bought and sold and would give more power for planning where and when services were needed.

The Leader, Councillor Scullion advised that the West Yorkshire Mayor was outside of the consultation process, and once all options were considered the Mayor would make a decision in mid-March 2024.

**RESOLVED** that:

(a) Cabinet would provide a letter of support to the West Yorkshire Mayor on the proposal for Bus Reform as detailed in the report; and

(b) the Director, Regeneration and Strategy be requested to provide a technical response to the consultation after giving due consideration to the comments received in the Local Transport Forum event on 27<sup>th</sup> November and Bus Operator engagement event on 6<sup>th</sup> December.

**85 A629 PHASE 1B LAND DESIGNATION**

Councillor Patient, Cabinet Member with responsibility for Climate Action, Active Travel and Housing submitted a written report of the Director, Regeneration and Strategy which sought the appropriation of Calderdale Council owned land at Exley Bank, Halifax, shown edged red on the plan attached at Appendix 1, ("the Land") from its current owning service, the Housing and Green Economy Team to Parking Services for the provision of residential permit parking as part of the A629 Phase 1B Elland Wood Bottom to Salterhebble Hill Scheme. The Land was registered at the Land Registry with the property description as being Land on the east side of Exley Bank, Halifax, and registered with title number WYK842524. The Council owned the freehold with title absolute as detailed in the Land Registry title information for title number WYK842524, a copy of which was appended to the report.

Cabinet's approval was sought to appropriate the site known as Exley Bank, Halifax. This was an internal transfer of land between two Council Departments; namely from the Housing and Green Economy Team to Parking Services to ensure that the holding power correctly reflected the future use of the land.

The report outlined background information, options considered, financial, legal, human resources and organisational development, environmental, health and economic implications.

**RESOLVED** that:

(a) the appropriation of the land from the existing general holding powers of The Housing and Green Economy Team to Parking Services under section 122(1) of the Local Government Act 1972 on or before completion of the Scheme, or before the carpark becomes operational (anticipated March 2024) to ensure it complied with the future use of the land be approved;

(b) the land being appropriated from the Housing Act 1985 and/or the Open Space Act 1906 to the Local Government Act 1972, as this Act had a broader definition that reflected the use of the land be approved; and

(c) the appropriation would apply only to that area of land shown edged red on the plan attached at Appendix 1 to the Director, Regeneration and Strategy's written report.

**86 PLACEMAKING AND DESIGN GUIDE SUPPLEMENTARY PLANNING DOCUMENT**

The Leader, Councillor Scullion presented a written report of the Director, Regeneration and Strategy that provided information on the Placemaking and Design Guide Supplementary Planning Documents. Following adoption of the Calderdale Local Plan on 22<sup>nd</sup> March 2023, a suite of Supplementary Planning Documents (SPDs) was in preparation. The latest SPD to be considered by Cabinet was the Placemaking and Design Guide SPD. The draft SPD had been informed by the Council's corporate priorities of reducing inequalities, creating strong, thriving towns and places, and tackling the climate emergency. Well-designed places would support all three of the corporate priorities for example through greater accessibility of places, enhancing the built environment, and ensuring that development could reduce carbon emissions from buildings and deliver a comprehensive approach to reducing environmental impacts.

To ensure a consistent approach to design requirements, the SPD preparation had involved and continued to involve meetings with other services that were involved in the delivery of infrastructure and development across the Borough. The draft Placemaking and Design Guide SPD was submitted to Cabinet to seek approval to undertake formal consultation as required by the Town and Country Planning (Local Planning) (England) Regulations 2012. Regulations 11 to 16 of the Town and Country Planning (Local Planning) (England) Regulations 2012 set out the requirements for producing Supplementary Planning Documents. Once adopted by the Council, SPDs become a material consideration which could be considered when determining planning applications. This SPD would assist with assessing the design aspects of planning applications for development.

The report outlined background information, options considered, financial, legal, human resources and organisational development, environmental, health and economic implications.

**RESOLVED** that approval be given to proceed to public consultation on the draft Placemaking and Design Guide Supplementary Planning Document identified at Appendix 1 of the report for four weeks.

**87 SECTION 106 AGREEMENT GOVERNANCE AND IMPLEMENTATION OF MONITORING AND MISCELLANEOUS FEES**

The Leader, Councillor Scullion presented a written report of the Director, Regeneration and Strategy that provided information on the issue of governance around the management of planning obligations entered into via planning agreements made under section 106 of the Town and Country Planning Act 1990 (as amended) ("Section 106 agreements"). It recommended a way forward in relation to the aforementioned issue, including the implementation of a fee system to cover the cost of effective monitoring of Section 106 agreements. For the avoidance of doubt, all references to "Section 106 agreement" in the report should be taken as applying equally to planning obligations contained in:

- i) a bilateral planning agreement entered into between the Council and a landowner or developer under section 106 of the Town and Country Planning Act 1990; and
- ii) a unilateral undertaking given by a landowner or developer alone under section 106 of the Town and Country Planning Act 1990.

The scope of the report covered the initial activities carried out at the planning application stage and the subsequent processes of ensuring compliance with the Section 106 agreement by developers in the first instance (i.e., developers paying the money or delivering the infrastructure) and then Council services spending the money or managing the infrastructure secured through a Section 106 agreement. Section 106 agreements supported the delivery of infrastructure, including affordable housing, transportation, open space, education, and blue/green infrastructure. Good governance of Section 106 agreements therefore supported the Council's priorities to reduce inequality; deliver strong and thriving towns and places; and respond to the climate emergency. It was important that the Council had appropriate oversight and procedures in place for the management, receipt and spending of financial developer contributions to the Council and the monitoring of non-financial developer contributions.

The proposals set out in the report should be seen in the context of the wider programme of improvements to planning related processes at Calderdale, following further revenue investment in the financial years 2022/23 onwards. A decision was required on the approach that the Council takes to managing Section 106 agreements that were signed in connection with planning permissions, including effective monitoring covered by a proportionate fee charged to developers. Good governance required the Council to adopt a Council wide approach to managing this issue.

The report outlined background information, options considered, financial, legal, human resources and organisational development, environmental, health and economic implications.

During discussions Members welcomed the recommendations and advised the importance of having the right controls in place following the implementation of the Local Plan. Members noted that often the planning fees did not cover costs and having the right governance in place would benefit developers, the Council and residents.

**\*RESOLVED that it be recommended to Council that:**

- (a) the approach to monitoring and general governance outlined in the Director, Regeneration and Strategy's written report be implemented for all new Section 106 agreements completed after 1 January 2024;
- (b) all Section 106 agreements completed after 1 January 2024, shall include provision for a monitoring fee in accordance with Appendix 1 of the Director, Regeneration and Strategy's written report;**

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**(c) the Council implements the miscellaneous Section 106 related fees set out in Appendix 1 of the Director, Regeneration and Strategy's written report from 1 January 2024; and**

**(d) the Director, Regeneration and Strategy in consultation with the Cabinet Member with responsibility for Resources be given delegated authority for reviewing the fees on an annual basis.**