

**PRINCIPAL SCRUTINY COMMITTEE****12 December 2005**Attendance:

## Councillors:

Allgood (Chairman) (P)

Beckett (P)  
 Bidgood  
 Cook (P)  
 Clohosey (P)  
 Chamberlain (P)

Davies  
 Lipscomb  
 Mitchell  
 Stallard (P)  
 Steel (P)

1. **APOLOGIES**

Apologies were received from Councillors Bidgood, Davies, Lipscomb and Mitchell and also Deputy Member Councillor Bennetts. Members had been previously advised that it would not be appropriate for Members of the Planning Development Control Committee to attend this meeting if they were to be involved in the determination of the Silver Hill planning application.

Apologies were also received from Deputy Member Councillor Hollingbery.

2. **CHAIRMAN'S ANNOUNCEMENTS**

The Chairman made no announcements.

3. **PUBLIC PARTICIPATION**

There were no questions asked or statements made.

4. **SILVER HILL DEVELOPMENT LANDOWNER'S APPROVAL (LESS EXEMPT APPENDIX 3)**

(Report CAB1179 refers)

The above item had not been notified for inclusion on the agenda within the statutory deadline. The Chairman agreed to accept the item onto the agenda as a matter requiring urgent consideration because of the need for onward referral of areas of specific consideration for Cabinet prior to referral of the application for 'landowners approval' to Council on 1 February 2006 .

The Chairman welcomed to the meeting Mr T Hellier from Berwin Leighton Paisner Solicitors and Mr A Murphy from Drivers Jonas. At the invitation of the Chairman they answered a number of detailed questions and clarified issues related to the development proposals.

The Chairman reminded Members that the Report had also been considered by the Special meeting of Cabinet held earlier that day. He explained that representatives

from Thornfield Properties had provided a presentation to Cabinet on the scheme and that Cabinet had endorsed the recommendations as set out in the report after considering a number of specific aspects of the proposals in relation to the provisions of the development agreement.

The Chairman referred to each of the 5 'Criterion for determining the landowner's approval' as set out in the Report and it was agreed that the Committee consider each in turn. As Criterion numbers 2 and 5 within Exempt Appendix 3 of the Report related to commercially sensitive matters, these would be dealt with in exempt session together with the Drivers Jonas appraisal of Thornfield's proposals (Exempt Appendix A of the Report refers).

#### Criterion 1) Substantial Conformity to the Planning Brief

A Member suggested that the inclusion of provision of a Youth Venue and Office Accommodation (following the public consultation exercise) may impact upon the content and viability of the scheme as a whole as they were not included in the original Planning Brief. Responding, the Chief Estates Officer explained that although it was not a specific requirement within the Developer Brief, mention had been made of youth facilities within the vision section of the Planning Brief and that the provision would be 'welcomed'. Mention had also been made of provision of a small amount of office space within the brief.

A Member made reference to the Antiques Market and suggested that an assumption that it would be demolished because its retention would compromise the development was contrary to what was originally anticipated within the Planning Brief. The Chief Estates Officer confirmed that the Antiques Market building could only be retained if the design was significantly altered. It was considered that development retaining the building would seriously compromise the street layout and massing of the scheme. Therefore, Thornfield would need make the case to demolish the building in their planning application. The Director of Development confirmed that the Planning Brief stated that the Council would only allow demolition of the Antique Market if the developer could make an appropriate case. The City Secretary and Solicitor reminded Members that the Planning Brief had indicated the likelihood for the necessity of the building's demolition, although the decision as to whether the retention of the building would compromise the development was to be made by the Planning Development Control Committee.

Following discussion, it was acknowledged that the decisions of the Planning Development Control Committee (as local Planning Authority) regarding the detail of the planning application could have impact upon the financial viability of the scheme depending on the nature of any subsequent departure from the original brief.

In response to a question, the City Secretary and Solicitor reminded Members that following Council's consideration of the application for landowner approval, future decisions upon the progression of the scheme would normally be made by Cabinet. Council would in future only consider any major departures from the approved scheme that would impact upon the Council's budget and/or policy framework. For example, this could include material changes to the financial arrangements of the scheme as set out in the development agreement. Principal Scrutiny Committee had a 'watching brief' in reviewing the implementation of the scheme.

Following debate, it was agreed that Cabinet's attention be drawn to the matter of risk associated with meeting of the requirements of the Planning Development Control Committee (as the local planning authority) and potential impact upon the overall

financial viability of the scheme together with the associated impact upon the Council and developer.

#### Criterion 2) Consistency with the Developers Proposals

The Chairman pointed out that this matter would be dealt with in Exempt session due to commercially sensitive information.

#### Criterion 3) Required Elements

A Member was concerned about a departure from the original development brief due to a reduction in the overall number of housing units (by 79 units) and the percentage of affordable housing. The Director of Communities explained that the numbers proposed were still above the minimum of a 100 units originally requested by the Council in the Planning Brief.

The Chief Estates Officer advised that the originally proposed dwelling numbers had been based on early 'block architectural' drawings of the site. Following public consultation, a revised scheme was produced with a subsequent reduction in height and bulk of some of the buildings. The housing unit numbers had been reduced accordingly. He advised that the proportion of socially rented housing as a percentage of the overall total had actually increased.

#### Criterion 4) Supportable in Planning Policy Terms

Members noted that the scheme had been developed on the basis of provision of 35 per cent affordable housing although the Council's emerging Local Plan policies now required 40 per cent. Members acknowledged that the developer may indicate in the subsequent planning application that the scheme may not be sustainable if the increase in provision was to be met. It was noted that the overall reduction in the number of housing units to be provided in the scheme also affected the number of affordable housing units that would be provided.

In response to discussion, the Director of Development reminded the Committee that the Planning Development Control Committee would consider any case submitted by the developer if the discrepancy in affordability percentages still remained at the planning application stage, as part of their determination of the proposals. Members were reminded that the Planning Brief had been compiled based on policy guidance at that time.

It was agreed that Cabinet should consider the public perception of supporting landlord's approval to a scheme that had a smaller affordable housing percentage than would be required of other developments in line with the Council's emerging policies.

A Member suggested that mixed tenures (as opposed to only social rented) might result in a higher affordable percentage overall.

A Member referred to the possibility of government call-in of the scheme due to departure from the existing Local Plan policies regarding shopping development on the site. It was explained that this was dependent on whether the Local Plan Review had superseded these policies at the time of determination of the proposals. Therefore, although call-in was a possibility (with associated impacts on the time scales) it was envisaged that this issue would be managed by the Planning Development Control Committee.

Criterion 5) Scheme Viability

The Chairman reminded that this matter would be dealt with in Exempt session due to commercially sensitive information.

The City Secretary and Solicitor advised that the comments of the Committee would be considered by a special meeting of Cabinet on 9 January 2006 in advance of final consideration of the application for landowner approval at Council on 1 February 2006.

RESOLVED:

That Cabinet seek assurances upon the following matters regarding the application for landowner's approval for the Silver Hill Development:

(i) An analysis of the risk associated with the meeting of the requirements of the Planning Development Control Committee and the potential impact upon the overall financial viability of the scheme and associated impact upon the Council and developer.

(ii) Consideration be given to the public perception of the Council, as landowner, in supporting landowner's approval for a development that had a smaller affordable housing percentage than what would be required of other developments in line with the Council's emerging policies.

5. EXEMPT BUSINESS

RESOLVED:

That the public be excluded from the meeting during the consideration of the following items of business because it is likely that, if members of the public were present, there would be disclosure to them of 'exempt information' as defined by Section 100I and Schedule 12A to the Local Government Act 1972.

<u>Minute Number</u>	<u>Item</u>	<u>Description of Exempt Information</u>
		) Information relating to
		) the financial or
		) business affairs of any
		) particular person (other
		) than the authority).
	Silver Hill	) (Para 7 to Schedule
	Development	) 12A refers).
	Landowner's	)
	Approval (Exempt	) Any terms proposed or
	Appendix 3)	) to be proposed by or to
		) the authority in the
		) course of negotiations
		) for a contract for the
		) acquisition or disposal

) of property or the  
 ) supply of goods or  
 ) services. (Para 9 to  
 ) Schedule 12A refers).  
 )  
 ) Any instructions to  
 ) counsel and any  
 ) opinion of counsel  
 ) (whether or not in  
 ) connection with any  
 ) proceedings) and any  
 ) advice received,  
 ) information obtained or  
 ) action to be taken in  
 ) connection with:-  
 ) (a) any legal  
 ) proceedings by or  
 ) against the authority, or  
 ) (b) the determination  
 ) of any matter affecting  
 ) the authority,  
 ) (whether, in either case,  
 ) proceedings have been  
 ) commenced or are in  
 ) contemplation).  
 ) (Para 12 to Schedule  
 ) 12A refers).

6. **SILVER HILL DEVELOPMENT LANDOWNER'S APPROVAL (EXEMPT APPENDIX 3)**  
 (Report CAB1179 refers)

The Committee considered the above Exempt Appendix which discussed commercially sensitive information related to consideration of the Council's consent by way of 'landowner's approval' in advance of submission of a planning application for the Silver Hill development (detail in exempt minute).

The meeting commenced at 4.30 pm and concluded at 6.05pm.