

CABINET

18 November 2008

Attendance:

- Councillor Beckett - *Leader and Portfolio Holder for Economy and Tourism (Chairman) (P)*
Councillor Allgood – *Portfolio Holder for Finance and Efficiency (P)*
Councillor Coates – *Portfolio Holder for Housing (P)*
Councillor Cooper – *Portfolio Holder for Communities and Safety (P)*
Councillor Godfrey – *Portfolio Holder for Performance and Organisational Development (P)*
Councillor Pearson – *Portfolio Holder for Environment (P)*
Councillor Stallard - *Portfolio Holder for Heritage, Culture and Sport (P)*
Councillor Wood – *Portfolio Holder for Planning and Access (P)*

Others in attendance who addressed the meeting:

Councillor Learney

Others in attendance who did not address the meeting:

Councillors Barratt, Evans, Hammerton, Higgins, Humby, Mitchell and Nelmes

1. **MINUTES**

RESOLVED:

That the minutes of the previous meeting held on 15 October 2008, less exempt item, be approved and adopted.

2. **PUBLIC PARTICIPATION**

There were no questions asked or statements made.

3. **LEADER AND PORTFOLIO HOLDER ANNOUNCEMENTS**

Councillor Allgood advised that Ernst and Young had been appointed as the administrators of Heritable Bank Limited, in which the Council had invested £1 million. The Administrators were expected to issue proposals to creditors, including the Council, shortly. The Council would also be represented at a creditors meeting to be held on 9 December 2008.

Councillor Coates reported that the Council had undertaken a “rough sleepers” count the previous night, in accordance with the requirements of the Department for Communities and Local Government (CLG). The count had found a total of four people sleeping rough (the last survey in 2003 had found one person). In response to questions, the Head of Strategic Housing advised that once a full report of the survey’s findings had been analysed, it would be reported to CLG and also used to formulate the Council’s action plans under the Homelessness Strategy.

4. **HOMELESSNESS STRATEGY**

(Report [CAB1741](#) refers)

Under the Council’s Constitution, Access to Information Procedure Rules (Rule 15.1 General Exception), this was a Key Decision, which had been included in the Forward Plan for a later Cabinet. Under this procedure, the Chairman of Principal Scrutiny Committee had been informed.

Councillor Coates emphasised that no additional resources were proposed under the Strategy as it was intended to use the document to prioritise existing resources.

Cabinet agreed to the following for the reasons set out above and outlined in the Report.

RESOLVED:

That the Homelessness Strategy be adopted, subject to any revisions that might be required by the Portfolio Holder for Housing, under the Portfolio Holder decision making scheme, following recommendations flowing from the validation of the Equality Impact Assessment.

5. **RIVER ITCHEN MAINTENANCE ISSUES**

(Report [CAB1711](#) refers)

Councillor Coates declared a personal (but not prejudicial) interest in respect of this item as he was a trustee of the National Flood Forum. He remained in the room, spoke and voted.

In response to questions, the Head of Access and Infrastructure confirmed that consultations had been undertaken with the Environment Agency and English Nature, in addition to informal discussions with people working on the river. This had indicated that the Itchen Navigation was a minor drain and that the dredging undertaken by Winchester College would not have any significant impact upon flood relief for Winchester. The Corporate Director (Operations) also emphasised that Winchester College had not contacted the Council prior to undertaking the work.

The Head of Access and Infrastructure also confirmed that further consultations would be undertaken with Natural England and other relevant bodies before any of the proposed remedial work was carried out. This would

include issues such as where the silt removed would be carried away and ensuring an appropriate mix of planting on river banks.

Councillor Allgood emphasised that the £175,000 estimated costs of the work was not currently included in the capital programme and would be considered as part of the review of the budget and capital programme, at a future Cabinet meeting.

Cabinet agreed to the following for the reasons set out above and outlined in the Report.

RESOLVED:

1. That the possible cost of the works proposed in the report be noted and included as a growth bid over four financial years in the Council's capital programme when the budget is considered in January 2009.

2. That, if and when Council agrees to include a provision in the capital programme, the Head of the Access and Infrastructure seeks tenders for the works and reports back to Cabinet or under the Portfolio Holder decision making system on the outcome of that process.

3. That Winchester College be advised that the City Council will not meet half of the cost incurred by the College in dredging the Itchen Navigation.

6. CITY COUNCIL'S TREASURY MANAGEMENT ARRANGEMENTS

(Report [CAB1752](#) refers)

Under the Council's Constitution, Access to Information Procedure Rules (Rule 15.1 General Exception), this was a Key Decision, which had not been included in the Forward Plan. Under this procedure, the Chairman of Principal Scrutiny Committee had been informed.

The Chief Executive introduced the report, which he had been requested by Cabinet to prepare, in order to undertake a review of the arrangements the Council had in place regarding taking decisions about investments. He outlined the Report's finding and recommendations in detail. Cabinet noted that Report CAB1752 below contained recommendations for the Council's revised Investment Strategy.

Cabinet noted that the appropriate officers and Cabinet Members were holding a meeting with its Treasury Management Advisors, Butlers, on 21 November 2008 to discuss issues raised in the report.

In response to questions, the Chief Executive advised that one purpose of the Report's recommendations was to encourage all Members to recognise the importance of the Treasury Management Strategy and to address key policy issues which lay behind it (paragraph 2.4 of the Report refers).

One Member suggested that the wording of recommendation (e) be amended by substitution of the word “if” for “when” to emphasise that the Portfolio Holder should be informed before any change was implemented. This was agreed.

In addition, Cabinet agreed that the possibility be investigated of an informal group of Cabinet Members being established to review strategic issues regarding Council investments every few months. It was noted that careful consideration was required to ensure the proper separation between Officer and Member roles in making investments. The Chief Executive agreed to discuss the suggestion further and report back accordingly to a future Cabinet meeting.

At the invitation of the Chairman, Councillor Learney stated that she believed that the Report left questions unanswered regarding the recent Council investment in Heritable Bank. She emphasised that all Councillors were collectively responsible for investments made and drew Cabinet’s attention to the statement of the Local Government Association, that no Council should rely solely on credit ratings, but should use its own expertise. She thanked the Chairman for the opportunity to submit questions to the meeting with the Council’s Treasury Management Advisors (Butlers). However, she requested that a representative from the Liberal Democrat Group be permitted to attend the meeting as an observer.

The Chairman agreed that the Council as a whole had collective responsibility for agreeing its Investment Strategy, but also emphasised the Leader and Cabinet’s role within this. In addition, he would take officers’ advice regarding a representative from the Liberal Democrat and Independent Groups attending the meeting and advise Councillors Learney and Hammerton accordingly.

With regard to the points raised by Councillor Learney and also in the wider press about the Council’s apparent failings in making the investment in Heritable Bank, the Chief Executive agreed that the Council must also rely on its own expertise, but could not make decisions based on rumours and unsubstantiated information. He emphasised paragraph 5.4 of the Report, which concluded that other local authorities were dealing with different institutions in different circumstances.

Cabinet agreed to the following for the reasons set out above and outlined in the Report.

RESOLVED:

1. That the Report’s conclusion that the Council’s Treasury Management Strategy and Procedure were fully complied with be noted.

2. That the further actions outlined in each section of the report be agreed, as follows:

- a) Members should, when considering the Treasury Management Strategy, address key policy issues (such as those listed in para.2.4) which lie behind the Treasury Management Strategy and Procedures;
- b) as part of the review of the Treasury Management Strategy, specific reassurance be sought on procedures for placing an investment;
- c) the Council's external auditors be asked to advise on the segregation of responsibilities for investment decisions;
- d) a quarterly report be produced for Corporate Management Team and the Portfolio Holder for Finance & Efficiency outline investments made and provide reassurance that appropriate procedures have been followed;
- e) the Portfolio Holder for Finance & Efficiency be notified if the Council's investment practices are to be varied significantly within the parameters set by the Treasury Management Strategy;
- f) the Council's Procurement Officer advise to ensure best practice is followed in securing a successor agreement to that currently held for Treasury Consultancy Services, and that the Portfolio Holder for Finance & Efficiency take part in the selection process;
- g) as part of the review of the Treasury Management Strategy the Council seek advice on information necessary to ascertain risk;
- h) that the Chief Executive investigate the possibility of establishing an informal group of Cabinet members to periodically monitor strategic issues regarding investments made by the Council and report back to a future Cabinet meeting.

3. That the Council actively engage with the work being led by the Local Government Association (LGA) to secure solutions to problems caused for local authorities by recent banking failures

4. That it be noted officers were in discussion with the Council's external auditors (the Audit Commission) concerning how best they can support the Council's actions on these matters.

7. **REVISED INVESTMENT STRATEGY 2008/09 (LESS EXEMPT APPENDIX)**
(Report [CAB1754](#) refers)

The Chairman agreed to accept the item onto the agenda as a matter requiring urgent consideration in order that if agreed by Cabinet, the recommendations contained therein could be implemented without delay.

Under the Council's Constitution, Access to Information Procedure Rules (Rule 16.1), this was a Key Decision, which had not been included in the Forward Plan. Under this procedure, the Chairman of Principal Scrutiny Committee had been informed and agreed that the Report be dealt with as an urgent matter.

Councillor Beckett advised that a decision on the Report's recommendations would be taken in the exempt session of the meeting, following consideration of the information contained in exempt Appendix C.

The Head of Finance clarified that Appendix C contained advice from the Council's Treasury Management Advisors. It was necessary to make this advice exempt under the terms of the agreement with the advisors, which stipulated that the information was for the sole use of the Council.

At the invitation of the Chairman, Councillor Learney advised that she did not wish to make comments on the Report, due to the lack of time available to consider it.

Cabinet noted that the Report would be also considered at a future Principal Scrutiny Committee (date to be arranged).

The Head of Finance confirmed that the Revised Investment Strategy included as Appendix A of the Report referred to the information and advice contained in the exempt appendix. She advised that if the new Strategy were approved, it was proposed to spread investments across the different tiers outlined in Appendix A, to spread the risks to the Council, whilst also taking account of the need for security and recognising the importance of retaining levels of income from investments made. Decisions would be made on the day required, having regard to all the circumstances at that time.

The Head of Finance confirmed that work was in progress forecasting the likely impact of a revised Strategy and the current economic climate on the level of income received from Council investments. A further Report would be submitted to a future Cabinet. However, indications were that existing investments would ensure that the outturn for 2008/09 would be more than estimated in the budget. She confirmed that the Strategy would be reviewed in February 2009 and earlier if changing circumstances warranted it.

Cabinet deferred consideration of the Report's recommendations to the exempt session of the meeting.

8. **INFORMAL SCRUTINY GROUPS – TERMS OF REFERENCE**

(Report [CAB1753](#) refers)

Councillor Allgood stated that the remit of the Asset Management Informal Scrutiny Group and the Maintaining General Fund Properties Informal Scrutiny Group appeared to overlap. The Corporate Director (Governance) agreed to contact the Chairmen of the Principal Scrutiny Committee and Resources Scrutiny Panel to request that this matter be considered further, with a view to ensuring there was not any duplication of work.

Councillor Stallard requested that a representative from the Council's Sports Division be invited to take part in meetings of the Youth Facilities Informal Scrutiny Group and the Corporate Director (Operations) agreed to take this forward.

Cabinet agreed to the following for the reasons set out above and outlined in the Report.

RESOLVED:

That the Cabinet and Principal Scrutiny Committee note the terms of reference of Informal Scrutiny Groups as set out at paragraphs 2-4 of the Report.

9. **MINUTES OF THE WEST OF WATERLOOVILLE FORUM HELD 30 SEPTEMBER 2008**

(Report [CAB1746](#) refers)

Cabinet agreed to the following for the reasons outlined in the Report.

RESOLVED:

1. That the minutes of the West of Waterlooville Forum held 30 September 2008 be received.

10. **MINUTES OF WINCHESTER TOWN FORUM HELD 9 OCTOBER 2008**

(Report [CAB1747](#) refers)

Cabinet agreed to the following for the reasons outlined in the Report.

RESOLVED:

That the minutes of the Winchester Town Forum held 9 October 2008 be received.

11. **MINUTES OF THE CABINET (LOCAL DEVELOPMENT FRAMEWORK) COMMITTEE HELD 21 OCTOBER 2008**

(Report [CAB1748](#) refers)

Cabinet agreed to the following for the reasons outlined in the Report.

RESOLVED:

That the minutes of the Cabinet (Local Development Framework) Committee held 21 October 2008 (as attached as Appendix A to these minutes) be received.

12. **SILVER HILL – COMPULSORILY PURCHASE ORDER (LESS EXEMPT APPENDICES C & D)**
 (Report [CAB1739](#) refers)
MINUTES OF PRINCIPAL SCRUTINY COMMITTEE HELD 12 NOVEMBER 2008 (LESS EXEMPT MINUTE)
 (Report [CAB1758](#) refers)

The Chairman agreed to accept the minutes of Principal Scrutiny Committee onto the agenda as a matter requiring urgent consideration, in order that its recommendations regarding Silver Hill could be considered at the same time as Report CAB1739.

Cabinet noted that information requested by Principal Scrutiny Committee had been circulated at the Cabinet meeting and would be considered under the exempt session of the meeting below. In addition, a letter had been received that morning from representatives of London and Henley (Winchester) Limited.

Because of the requirement for all matters referred to be considered prior to a decision being made, Cabinet agreed to defer decision on the Report's recommendations and the letter to the exempt session of the meeting.

The Chairman thanked Principal Scrutiny Committee for its consideration of Report CAB1739. Cabinet noted the issues it had raised regarding seeking to ensure the maximum amount of affordable housing should be included, consistent with the whole scheme being viable, and only in exceptional circumstances should an off-site provision for affordable housing be accepted. The Chairman indicated that the current proposal was for on-site provision and that was the preferred approach.

In his introduction of the Report, the Corporate Director (Operations) highlighted a correction to the existing Long Stop Date quoted in paragraph 9.2 of the Report, which should read 22 December 2009. He emphasised that the proposed extension of this date to 31 December 2012 was to allow sufficient time for ongoing work towards the scheme to take place.

The Head of Estates clarified that, at the time the Development Agreement was drafted, detailed work on the layout for the market had not been undertaken. As plans had developed, the alternative location had been proposed which it was believed to be of positive benefit to the scheme and market traders.

Cabinet agreed to the following for the reasons set out above and outlined in the Report.

RESOLVED:

That the minutes of Principal Scrutiny Committee held 12 November 2008 be received and the recommendations contained therein be noted and taken into account during consideration of the exempt item below.

13. **FUTURE ITEMS FOR CONSIDERATION**

RESOLVED:

That the list of future items, as set out in the Forward Plan for November 2008, be noted.

14. **DECISIONS TAKEN BY PORTFOLIO HOLDERS UNDER THEIR DELEGATED POWERS**

RESOLVED:

That the decisions taken by Portfolio Holders under their delegated powers since the last Cabinet meeting, as set out on the agenda sheet, be noted.

15. **EXEMPT BUSINESS**

RESOLVED:

1. That in all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

2. 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>
##	Exempt minutes of the previous meeting) Information relating to the financial or business affairs of any particular person (including the authority holding that information). (Para 3 Schedule 12A refers)
##	Silver Hill – Compulsory Purchase Order	
##	Exempt minutes of Principal Scrutiny Committee held 12 November 2008	
##	Information requested by Principal Scrutiny	

	Committee)	
##	Letter from)	
	representatives of)	
	London Henley)	
	(Winchester) Ltd)	
##	Silver Hill – Compulsory)	Information in respect of
	Purchase Order)	which a claim to legal
##	Exempt minutes of)	professional privilege could
	Principal Scrutiny)	be maintained in legal
	Committee held 12)	proceedings. (Para 5
	November 2008)	Schedule 12A refers)
##	Information requested)	
	by Principal Scrutiny)	
	Committee)	
##	Letter from)	
	representatives of)	
	London Henley)	
	(Winchester) Ltd)	

16. **EXEMPT MINUTES**

RESOLVED:

That the exempt minutes of the previous meeting, held on 15 October 2008, be approved and adopted.

17. **SILVER HILL – COMPULSORY PURCHASE ORDER (EXEMPT APPENDICES C & D and Exempt Addendums 1 to 3)**
 (Report CAB1739 refers)
MINUTES OF PRINCIPAL SCRUTINY COMMITTEE HELD 12 NOVEMBER 2008 (EXEMPT MINUTE)
 (Report CAB1758 refers)

Cabinet noted that information requested by Principal Scrutiny Committee had been circulated at the Cabinet meeting, as follows:

- Updated Risk Assessment – CAB1739, Addendum 1
- Confirmation of advice on stamp duty land tax (Berwin Leighton Paisner) – CAB1739, Addendum 2

In addition, a letter had been received that morning from representatives of London and Henley (Winchester) Limited (CAB1739, Addendum 3).

The Chairman agreed to accept the exempt minutes of Principal Scrutiny Committee and all three Addendums onto the agenda, as matters requiring urgent consideration, in order that information contained within them could be considered as part of the discussions on Report CAB1739.

Cabinet considered the information contained in the exempt documents referred to above (detail in exempt minute).

Cabinet agreed to the following for the reasons set out in under consideration of the main report above and outlined in the Report, together with those detailed in the exempt minute below.

RESOLVED:

1. That the amendments to the planning application which the Council (as Local Planning Authority at a meeting of the Planning Development Control Committee on October 21 2008) resolved to grant subject to legal agreements and conditions be noted and, insofar as it is necessary under the Development Agreement, agrees to these amendments being incorporated into the Silver Hill scheme and to the Development Agreement being revised accordingly.

2. That the revision to the manner in which the required element in relation to CCTV and the parking office is now to be achieved be noted.

3. That the revision of the Long Stop Date in the Development Agreement to 31 December 2012 be approved.

4. That the revision of the Development Agreement to delete the requirement for any housing grant received to be used only for the provision of new social rented units be agreed.

5. That the revision of the Development Agreement be agreed so as to provide that the Council may at its sole discretion implement the policy of its Affordable Housing Supplementary Planning Document in relation to off site affordable housing provision as an alternative to the provision of some or all of the required element of affordable housing on site within the scheme.

6. That the revision of the Development Agreement be agreed to clarify that the relocation of the daily market and Farmers' Market is to be to Silver Hill Square and to the Broadway and High Street, for the appropriate relocation of the market store and for the removal of the requirement for a dedicated market waste compactor.

7. That the five additional permanent market stalls adjacent to 163 High Street are included in the area to be leased to Thornfield and subject to ground rent.

8. That the Corporate Director (Governance) be authorised to amend the Development Agreement, draft lease terms and to prepare and complete such other documentation as may be necessary to provide for the leases of the undeveloped Silver Hill site (as set out in the report) once the Agreement becomes unconditional and to provide for the other variations as set out in this report.

9. That compulsory purchase powers be used to facilitate the comprehensive redevelopment of the Silver Hill area of central Winchester and (subject to the signed Full Indemnity and Section 106 agreements being in place) the Corporate Director (Governance) be authorised;

- (i) To make a Compulsory Purchase Order (the Order) for the Silver Hill development area pursuant to Sections 226(1)(a) and 226(3)(a) of the Town and Country Planning Act 1990 (as amended) and the Acquisition of Land Act 1981 and Section 13 of the Local Government (Miscellaneous Provisions) Act 1976 (as necessary) for the purpose of acquiring the Order Lands which are shown on the plan attached as Appendix A to this report;
- (ii) To make all amendments or additions to the Order Lands plan to encompass all additional lands or rights which may be required for the scheme including but not limited to any interests which have the benefit of restrictive covenants or easements and rights over the development site, subject to prior consultation with the Leader;
- (iii) To advertise the making of the Order and to take all relevant action to facilitate the promotion and confirmation of the Order by the Secretary of State including publication of the Statement of Reasons, the Statement of Case and all necessary evidence in support of the Council's case at any resulting public inquiry. Additionally to appoint any necessary consultants to assist in facilitating the promotion and confirmation of the Order;
- (iv) Upon the Order having been confirmed and becoming operative to execute General Vesting Declarations or, at his discretion, to serve Notices to Treat and where necessary Notices of Entry under Sections 5 and 11 of the Compulsory Purchase Act 1965 in respect of land included in the Orders;
- (v) To negotiate and agree terms with interested parties for the purchase by agreement or payment of compensation for any of the interests or rights included in the Order and where appropriate to agree relocations;
- (vi) To take all necessary steps in relation to compensation issues which are referred to the Lands Tribunal, including advising on the appropriate uses and compensation payable and in issuing any appropriate certificate and be further authorised to appoint chartered surveyors jointly with Thornfield to assist and advise in this regard.

18. **REVISED INVESTMENT STRATEGY 2008/09 - EXEMPT APPENDIX**
(Report CAB1754 refers)

Cabinet discussed the information outlined in the exempt appendix containing advice from the Council's Treasury Management Advisors (detail in exempt minute).

Cabinet agreed to the following for the reasons set out under consideration of the main report above and outlined in the Report, together with those detailed in the exempt minute below.

RECOMMENDED:

1. THAT THE CIRCUMSTANCES LEADING TO AN EARLY REVIEW OF THE COUNCIL'S INVESTMENT STRATEGY (AS CONTAINED IN THE TREASURY MANAGEMENT REPORT APPROVED BY THE COUNCIL IN FEBRUARY 2008, CAB1599 REFERS) BE NOTED.

2. THAT THE REVISED INVESTMENT STRATEGY FOR 2008/09, AND THE DETAILED CRITERIA INCLUDED IN APPENDIX A OF REPORT CAB1754 BE APPROVED.

RESOLVED:

That the Chief Executive use emergency powers, in consultation with the Leader and Chairman of Principal Scrutiny Committee, to pursue the Revised Investment Strategy pending its consideration by Council.

The meeting commenced at 10.00am and concluded at 1.20pm

Chairman