

CABINET - 7 DECEMBER 2011

THE OVERVIEW AND SCRUTINY COMMITTEE – 23 JANUARY 2012

SILVER HILL - UPDATE

REPORT OF CORPORATE DIRECTOR (OPERATIONS)

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RECENT REFERENCES:

[CAB2183](#) – Silver Hill Winchester – Compulsory Purchase Order - 15 June 2011

EXECUTIVE SUMMARY:

The report provides an update on steps to bring forward the Silver Hill development. Good progress is being made and key milestones have now been reached.

RECOMMENDATIONS:

To Cabinet:

- 1 That the update report be noted.

To The Overview and Scrutiny Committee:

- 2 That the Committee considers whether it wishes to draw any issues to the attention of the Leader, or if anything of significance, to Cabinet.

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DETAIL:

1 Introduction

- 1.1 At its meeting on 15 June 2011 Cabinet received a report restating the case for using compulsory purchase ('CPO') powers to assemble the land required for the Silver Hill development in Winchester. This followed the acquisition of the former Thornfield interests by Henderson Global Investors UK Property Fund at the beginning of the year.
- 1.2 This report provides Cabinet and the Overview and Scrutiny Committee with an update on recent progress on the Silver Hill project and the next steps in the CPO process.
- 1.3 The project team, which consists of representatives from the Council, Henderson, and key consultants (in particular the Council's lawyers Berwin Leighton Paisner and the CPO consultant GVA), meets on a regular basis to manage the work programme and discuss issues as they arise. The CPO process involves a well-defined series of steps, largely set down in legislation and Government guidance, which are very familiar to the consultants providing the technical support to the project. Over the last few weeks, consultants acting for the Council have been obtaining information about the property interests (which are not just land and buildings but also rights, such as rights of access), providing information to those with property interests and putting together the evidence needed to support the Order itself. The relevant officials in the Government office which deals with CPO matters have been consulted and Tim Corner QC has advised on the documentation.
- 1.4 The significant milestones now achieved as a result of this work are:
 - a. The CPO plan has been finalised. This varied slightly from the plan before Members in June and the variations were approved by the Corporate Director (Governance) in consultation with the Leader in accordance with the delegated authority given by Cabinet. The final CPO plan is attached as Appendix 1 to this report. It has been possible to reduce the extent of the oversailing rights required as the construction process has been considered in more detail.
 - b. The completion of the Indemnity Agreement between the Council and Henderson. This sets out the obligations on the developer to meet the costs of the CPO process and, eventually, the acquisition of the property.
 - c. The making of the Order itself. As previously advised to Members this took place on 21 November 2011. The Council has given until 22

December 2011 for objections to be made which is in excess of the 21 day period required by legislation.

- 1.5 In accordance with the statutory process, notice has been served on all of those with property interests which need to be acquired, explaining their rights to object. It is almost certain that there will be objections to the CPO, since making an objection ensures that a property owner maintains a negotiating position. There is an obligation on the Council to ensure that Henderson continues to negotiate with property interests to seek to acquire the property or rights needed without compulsion. This is more likely to be achieved now that the CPO has been made. The project team will monitor negotiations and take strategic decisions about acquisitions as the need arises.
- 1.6 Assuming that one or more objections cannot be resolved, a public inquiry into the justification for the CPO will be held by an inspector appointed by the Secretary of State, possibly in May or June 2012. The inspector will report to the Secretary of State, and the CPO must be confirmed by the Secretary of State before the powers to compulsorily acquire land under it can be exercised. The purpose of the inquiry is to determine whether it is reasonable to confirm the CPO and authorise the Council's use of CPO powers, not to settle matters of compensation.
- 1.7 Representatives from Henderson gave a presentation to Members on 8 September 2011, at which they talked about the company and their vision for the Silver Hill development as part of a successful town centre. A similar presentation was made to the Winchester BID on 15 November 2011. Henderson have made clear that they are ready and willing to take an active role in discussions about how the scheme can enhance the retail offer in the town to the benefit of all traders. It is understandable that existing traders should be concerned about change, but at the BID meeting it was explained how the strength of retailing in central Winchester as a whole is an important issue for the success of Silver Hill, which cannot succeed in isolation from the vitality and attractiveness of the town as a whole.
- 1.8 Contrary to recent press reports, Henderson are not proposing any changes to the scheme. However, the requirements of retailers and service providers may evolve over time and the final scheme will have to take account of this. Any proposed amendments will be subject to control either through the planning system, the Development Agreement or both. This does not indicate that there is anything unsatisfactory in the scheme as it stands or that changes are necessary at this moment in time. It does reflect the reality of the commercial property market and service provision in town centres.

2 Financial Appraisal

- 2.1 One of the conditions of the Development Agreement is that the scheme meets a financial viability test at the point when it becomes 'unconditional' and ready to proceed. It is obvious that the developer will keep the viability under constant review since it is their money at stake in the process. The Council also has an interest in the financial viability since this determines the likelihood of the scheme being realised, with all of the attendant benefits. The

developer is obliged to produce interim appraisals at reasonable intervals, and the Council has appointed its own consultants, Drivers Jonas Deloitte (DJD) to provide independent advice on the appraisals when required. DJD have recently completed a review of the Henderson appraisal carried out in June 2011 and have concluded that the scheme currently exceeds the necessary development return based on the (reasonable) assumptions made. Further work will be commissioned at key stages in the development process.

3. St Clements Surgery

- 3.1 Architecture PLB are making good progress on the design and specification for the proposed new surgery for the St Clements practice on the Upper Brook Street car park site. A planning application is expected to be made in January 2012.
- 3.2 Cabinet will be asked to consider options for the development of the surgery shortly. It is important that a decision is made in a timely fashion so that if planning consent is granted an early start on site is made.

4. Project timetable

- 4.1 Attached to the report as Appendix 2 is an indicative project timetable showing the relationship between key elements, in particular the CPO inquiry. As always where inquiries are necessary the timetable cannot be precise but the time periods allowed are considered reasonable by the consultants. Cabinet and Overview and Scrutiny Committee will be kept up to date with further reports at key intervals although it should be noted that provided matters proceed satisfactorily there are no further key decisions for the Council to take in the near future.f

OTHER CONSIDERATIONS:

3 SUSTAINABLE COMMUNITY STRATEGY AND CHANGE PLANS (RELEVANCE TO):

- 3.1 The Silver Hill scheme is a scheme of strategic importance in regenerating an under performing part of Winchester town centre and thus contributing to the economic prosperity outcomes in the Community Strategy and Change Plans.

4 RESOURCE IMPLICATIONS:

- 4.1 The Indemnity Agreement now in place ensures that almost all of the Council's costs in promoting the CPO are met by Henderson. The Council may have some costs for professional advice on matters which arise because it is promoting the development and budget provision of £25,000 has been made for these in the current financial year. Land acquisition costs which will arise if the CPO is approved will also be met by Henderson in accordance with the Indemnity Agreement.
- 4.2 As a consequence of this scheme there will be substantial financial transactions affecting the Council's books of account and primary statements; the Movement in Reserves Statement, the Comprehensive Income and

Expenditure Account and the Balance Sheet and associated notes. From the Council's perspective, it will be necessary to model and manage the cash flows arising; to interpret the financial transactions for statutory returns and financial reporting; ensure the proper consideration of any direct or indirect tax consequences; quantify the financial risks to the Council, and liaise with External Auditors. This will require resources to be applied at the appropriate times and may also require some specialist advice. These requirements will be considered in the current review of the Financial Services Team.

5 RISK MANAGEMENT ISSUES

- 5.1 Two principle strategic risks remain within the project. These are the further deterioration in the economic climate causing a withdrawal of funding from the developer, and the failure to obtain confirmation of the CPO meaning that land cannot be assembled. The developer has made assessments of the investment potential of the scheme, development costs and income. On this basis they consider it viable, and have committed significant funds to the process. The Council's own advisors consider the assumptions made reasonable and the scheme viable. This is underpinned by the strength of the economy and retail sector in Winchester which has remained buoyant despite harsh conditions within the wider economy. Risks related to the CPO can be managed through careful work to ensure that the process itself is sound and through the arguments that will be made against any objections. Henderson have a willingness and the financial capability to enter into negotiations with any interested property or rights owner. The project is being monitored through the Council's project management system and by the CPO Project Team.

BACKGROUND DOCUMENTS:

None

APPENDICES:

Appendix 1 Updated CPO Plan

Appendix 2 Project Timetable

MAP REFERRED TO IN THE WINCHESTER CITY COUNCIL (SILVER HILL) COMPULSORY PURCHASE ORDER 2011



