

**CABINET****10 September 2014****Attendance:**

Councillor Humby -	<i>Leader (Chairman) (P)</i>
Councillor Weston -	<i>Deputy Leader and Portfolio Holder for Built Environment (Vice-Chairman) (P)</i>
Councillor Godfrey -	<i>Portfolio Holder for Finance &amp; Organisational Development (P)</i>
Councillor Miller -	<i>Portfolio Holder for Business Services (P)</i>
Councillor Southgate -	<i>Portfolio Holder for Communities &amp; Transport</i>
Councillor Tait -	<i>Portfolio Holder for Housing Service(P)</i>
Councillor Warwick -	<i>Portfolio Holder for Environment, Health &amp; Wellbeing (P)</i>

**Others in attendance who addressed the meeting:**

Councillors Learney and Weir

**Others in attendance who did not address the meeting:**

Councillors J Berry and Pines

**1. DISCLOSURE OF INTERESTS**

Councillor Humby declared a disclosable pecuniary interest in respect of agenda items due to his role as a County Councillor. Councillor Godfrey declared a disclosable pecuniary interest in respect of agenda items due to his role as a County Council employee. However, as there was no material conflict of interest, they remained in the room, spoke and voted under the dispensation granted on behalf of the Standards Committee to participate and vote in all matters which might have a County Council involvement.

**2. MEMBERSHIP OF CABINET COMMITTEES**

With regard the Whiteley Community Land Trust, Cabinet noted that one nomination had been received for Councillor Evans.

In addition, Cabinet noted that the Conservative nominations for the Fairness and Equality Informal Policy Group had been amended by the replacement of Councillor Weston with Councillor Dibden.

RESOLVED:

1. That, in addition to the Chairman (Councillor Southgate), the following Councillors be appointed to the Fairness and Equality Informal Policy Group:  
Councillors J Berry, Clear, Weir, Warwick and Dibden.
2. That Councillor Evans be appointed as the Council's representative on the Wickham Community Land Trust for the 2014/15 Municipal Year.
3. That Councillor Mason replace Councillor Ruffell as the representative on the Twyford Waterworks for the remainder of the 2014/15 Municipal Year (Councillor Southgate to remain as the Observer).

3. **MINUTES**

With regard to comments made at the meeting on 2 July 2014 about the distribution of appointments to outside bodies amongst the three political groups, Councillor Tait queried whether further information on the requirements of individual organisation could be obtained.

The Chief Executive advised that where an organisation had specific requirements, these were made known to Councillors.

RESOLVED:

That the minutes of the previous meeting held on 2 July 2014 and of the Special Cabinet meeting held 6 August 2014, less exempt items, be approved and adopted.

4. **PUBLIC PARTICIPATION**

There were no questions asked/statements made.

5. **LEADER AND PORTFOLIO HOLDER ANNOUNCEMENTS**

Councillor Warwick reported that the Council had recently introduced the new Park and Cycle scheme from the South Park and Ride site. This enabled users to park at the site at a reduced rate and then cycle into Winchester.

Councillor Tait announced that the Council's proposals for an Extra Care Housing Scheme on Chesil Street surface car park would be on display in a public exhibition in the Wintonian Room, Winchester Guildhall from 15 September 2014.

Councillor Humby announced that the amended proposals for the redevelopment of Silver Hill were currently on display in a public exhibition in the Wintonian Room, Winchester Guildhall.

Councillor Miller reported that the Guildhall had recently hosted a Buddhist conference at which the Council had been presented with an antique ceramic tea bowl.

6. **CAPITAL STRATEGY 2014**  
(Report CAB2610 refers)

In introducing the Report, Councillor Godfrey emphasised the improvements in terms of timeliness and cost of delivery of projects, which had been assisted by the introduction of the Council's Major Project Team. He highlighted that work was on-going to prepare and schedule project spending and to refine the Strategy itself.

The Chief Executive also emphasised that work on improving the corporate planning process was continuing with a view to ensuring resources were properly aligned and there was flexibility to meet priorities as they changed.

At the invitation of the Chairman, Councillor Learney addressed Cabinet and in summary considered that the Strategy did not achieve its purpose of assisting the Council in moving forward proposals. She did not believe stated expenditure of less than £3.5 million over the next five years was adequate, having regard to the number of potential major projects being put forward. For example, replacement of the River Park Leisure Centre would require at least £20 million, and replacement City offices and proposals for Station Approach redevelopment could also cost several million pounds each. The Strategy did not indicate how the Council might free up capital or dispose of assets or give details of the cost of borrowing. In general, she considered that the Strategy should be clearer about the likely costs for such projects and what steps the Council would need to take to move forward.

Councillor Godfrey and the Chief Executive acknowledged these comments and confirmed that further detail would follow in the form of the medium term financial strategy which was currently being prepared with the Chief Finance Officer.

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

**RECOMMENDED:**

**THAT THE DRAFT CAPITAL STRATEGY FOR 2014 BE APPROVED, AS SET OUT IN APPENDIX A OF CAB2610.**

7. **PROVISION OF MUSEUM SERVICES BY HAMPSHIRE CULTURAL TRUST**

(Report CAB2589 refers)

Councillor Humby stated that he was pleased to announce that the interim trustees were now in place. He also thanked Councillor Gemmell and other members of the Museums Informal Scrutiny Group for their work on this project, together with Councillor Southgate for his role as the Council's trustee on the interim board.

The Assistant Director (Economy and Communities) advised that the Report set out the next stages in the process of moving towards the Trust. She reminded Members that the museums collection and museum buildings would remain in the Council's ownership, but the Museums staff would transfer to the new Trust.

In response to questions, the Corporate Director clarified that the museums collection would be loaned to the Trust. However, some items (such as the Civic Silver) were not included in the loan. One option would be for the Trust to provide a service under a Service Level Agreement with the Council in relation to maintaining such items.

The Assistant Director confirmed that, as set out in Paragraph 7.1 of the Report, any significant changes to finances previously approved would be brought forward for further approval as required.

In response to questions about how much influence the Council would have over future decisions of the Trust, the Assistant Director explained it would be a collaborative approach, but the Council would not have absolute control. Officers emphasised that the status of the Trust would offer it more opportunities for grant funding and other sources of income (for example gift aid) than would be available to the Council as a local authority.

In response to questions about the main financial risks for the Trust, and in particular how it would manage rising staff costs, the Assistant Director explained that the Management and Funding Agreement provided for flexibility regarding the management of staffing budgets, and a six year commitment from the two Councils to support strategic restructuring by the Trust if required.

At the invitation of the Chairman, Councillor Weir addressed Cabinet and congratulated the Assistant Director and her team for their work on this project to date. She also endorsed Councillor Humby's comments regarding the board appointment and emphasised that the Head of Trust appointment was of significant importance. She requested further consideration of the following points:

- The Overview and Scrutiny Committee should have a clear role in monitoring future developments and managing potential risks;

- The Trust should ensure it delivered opportunities for local schools etc and the Council should have the first call on its collections;
- The pension contributions of transferring staff should be fully understood.

During discussion, Cabinet welcomed the opportunities presented by the establishment of the Trust and also thanked the Assistant Director and her Team for their work.

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

RESOLVED:

1. That the Heads of Terms of the Management and Funding Agreement (MFA) set out at Appendix 2 of the Report be approved.
2. That the Head of Legal and Democratic Services in consultation with the Leader, the Corporate Director and Chief Finance Officer be authorised to finalise and sign the Agreement on behalf of the Council.
3. That the Heads of Terms of the Collection Loan Agreement (CLA) set out at Appendix 3 be approved.
4. That the Head of Legal and Democratic Services in consultation with the Leader and the Assistant Director (Economy and Communities) be authorised to finalise and sign the Agreement on behalf of the Council, ensuring that it reflects the outcome of investigations into the disposal of items from the collection previously approved for disposal by Cabinet in November 2011 (CAB2248 - Winchester Museums: Improving the Long Term stability of the Service - refers).
5. That the Heads of Terms of the generic Property Lease Agreement (PLA) set out at Appendix 4 be approved.
6. That the Head of Legal and Democratic Services in consultation with the Leader, the Chief Finance Officer and the Head of Estates be authorised to finalise and sign the individual leases for the properties owned by the Council which are to be leased to the Trust (as set out in paragraph 2.8 of the Report).
7. That the Heads of Terms of the Commercial Transfer Agreement set out at Appendix 5 be approved.
8. That the Head of Legal and Democratic Services in consultation with the Head of Organisational Development be

authorised to sign the Commercial Transfer Agreement to give effect to the transfer of staff to the Hampshire Cultural Trust.

9. That the Assistant Director (Economy and Communities), in consultation with the Leader, the Chief Finance Officer, the Head of Legal and Democratic Services, the Head of Organisational Development, the Corporate Director and the Head of Estates as appropriate, be authorised to take any other steps that are necessary to progress arrangements for the provision of museum services for Winchester by the Hampshire Cultural Trust.

8. **PUBLIC ART COMMISSIONING: WEST OF WATERLOOVILLE MAJOR DEVELOPMENT AREA (BEREWOOD SITE)**  
(Report CAB2614 refers)

In response to questions regarding the possible risk to the Council (discussed in Paragraph 5 of the Report), the Assistant Director (Economy and Communities) advised that indications were that new properties on the MDA were selling well.

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

RESOLVED:

1. That approval be given to the Assistant Director (Economy and Communities) to advertise for a public art consultant for a maximum sum of £95,000, to be funded from Section 106 contributions from Grainger over the life of the Berewood development, in line with the trigger points set out in the S106 Agreement with Grainger and the delivery plan at Appendix 2 of the Report.

2. That any minor changes to the specification attached at Appendix 1 be made by the Assistant Director (Economy and Communities) in consultation with the Chair of the West of Waterlooville Arts Advisory Panel prior to advertisement.

3. A General Fund supplementary revenue estimate of £95,000, in accordance with Financial Procedure Rule 7.3, be approved. In order to commence with the initial art consultant works approval is sought for up to £25,000 to be funded initially by the Major Investment Reserve (£10,000 in 2014/15 and £15,000 in 2015/16) which is planned to be replenished when the S106 funding is received per the trigger points in 4.4 below.

9. **MINUTES OF THE CABINET (HOUSING) COMMITTEE HELD 9 JULY 2014**

(Report CAB2611 refers)

It was noted that the recommendation in respect of the Housing Revenue Account 2013/14 Outturn (Report CAB2597 (HSG) refers) had already been approved by full Council at its meeting on 16 July 2014.

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

RESOLVED:

That the minutes of the Cabinet (Housing) Committee held 9 July 2014 be received (as attached as Appendix A) and the recommendations contained therein be agreed.

10. **MINUTES OF THE CABINET (TRAFFIC AND PARKING) COMMITTEE HELD 15 JULY 2014**

(Report CAB2612 refers)

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

RESOLVED:

That the minutes of the Cabinet (Traffic and Parking) Committee held 15 July 2014 be received (as attached as Appendix B).

11. **SILVER HILL UPDATE (LESS EXEMPT APPENDICES)**

(Report CAB2609 refers)

The Head of Estates explained that the Report sought agreement to allow the proposals for a replacement surgery for the St Clements Practice to progress. The provision of a new surgery was one of the key elements of the Silver Hill scheme. He emphasised that the current surgery was very out of date and the Practice were keen to move to a new, purpose-built premises as soon as possible. The Chief Executive indicated that doctors at the St Clement's Surgery considered the new surgery would provide a significant improvement in healthcare in Winchester, which was an additional benefit of the Silver Hill scheme. The Head of Estates confirmed that a detailed business case for the development of the new surgery would be prepared once the revised designs had been agreed.

In response to questions, the Head of Estates advised that he was confident the future rental income from the new surgery would cover the Council's expenditure. One Member queried whether the new surgery could include a "healthy living pharmacy" and the Head of

Estates agreed to investigate this suggestion further with the Practice, but it would be a matter for the Practice to determine.

The Head of Legal and Democratic Services advised that a claim for formal judicial review proceedings had now been served on the Council by Councillor Kim Gottlieb. The next stage would be for Officers to discuss the detail of the claim with Counsel and submit a response. He further reported that a robust response, drafted by Leading Counsel, had already been given by the Council to the pre-action protocol letter from Councillor Gottlieb's solicitors. The claim and the Council's response thereon would be considered by a High Court Judge to decide whether to grant permission for the claim for judicial review to proceed. This would be initially on the papers lodged with the Court, but it might also involve an oral hearing. If permission for the claim to proceed was refused, then the legal action would end. If permission was granted by the Judge, the full judicial review hearing would go ahead.

In response to questions, the Head of Legal and Democratic Services advised that the legal costs to the Council of such a challenge were not covered by the Development Agreement. Consequentially, there was a risk the Council could face significant costs, as detailed in Paragraph 7.7 of the Report. Henderson would be asked whether they would contribute to the Council's costs. He confirmed that the estimated costs of approximately £80,000 did not include the cost of Officer time in working on the legal challenge and that, even if the Council was successful, it would not necessarily recover its full costs of the litigation.

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

**RESOLVED:**

1. That a General Fund supplementary revenue estimate of £100,000 be approved, funded by a matching release from the Property Reserve (Asset Management Plan) in accordance with Financial Procedure Rule 7.3, in order to progress the design of the replacement St Clements's surgery.
2. That in order to develop the conceptual designs they have produced for the new surgery, a direction be made under Contract Procedure Rule 2.4 a) to authorise the Head of Estates to appoint Architecture PLB as Project Architects up to design stage 3 for Design & Build.
3. That a cost engineering exercise be undertaken with the Architects to make the design of the building more efficient with a view to reducing construction costs.



4. That the Head of Estates be authorised to appoint cost consultants to assess the cost of the revised design, progress the contract documentation to tender stage and to advise on the most appropriate form of contracting to use to secure the construction of the property.

5. That the Head of Estates be authorised to appoint M&E and Structural Engineers and such other consultants as are required to progress the design to enable a business case to be developed and (following approval of that) to help the cost consultant to develop the tender documentation.

6. That the Head of Estates be authorised to submit any necessary applications for planning consent arising from the revised design and other applications for works requiring statutory consent.

7. That the Head of Estates be authorised to appoint GVA Grimley to update the valuation of the proposed surgery, to advise on the letting to the St. Clements Practice and to conclude negotiations for the letting of the pharmacy to Lloyds Chemist.

8. That a detailed business case for the development of the new surgery be prepared once the revised design has been agreed, costed and valued, and submitted to Cabinet and Council for approval.

9. That subject to the development and approval by Cabinet and Council of a viable business case and the funding of the scheme:-

- a) prior to the commencement of construction works, a building agreement and lease be entered into with the St. Clements Practice on terms to be agreed by the Head of Estates.
- b) the new surgery be let to the St Clements Practice on terms to be approved by the Head of Estates.
- c) the Head of Estates, in consultation with the Head of Legal and Democratic Services, be authorised to select the procurement procedure to be used, determine the evaluation model to be used, and seek tenders for the construction of the property, taking account of the advice obtained from the Cost Consultant and complying with the Council's Contracts Procedure Rules;
- d) That following the analysis of the tenders by the cost consultant, the Head of Estates be authorised to accept the lowest compliant tender, subject to this being within the cost

assessment identified within the approved business case and subject to the tenderer being able to undertake the works within the required timescale.

10. Subject to the project proceeding, that the relocation of the Lloyds pharmacy to the new Surgery be approved on terms to be agreed by the Head of Estates.

11. That the terms set out in Exempt Appendix B for the acquisition by Silverhill Winchester No 1 Limited of the freehold of Friarsgate Medical Centre, Friarsgate, Winchester from Silverhill Winchester No 2 be approved.

12. That the estimated budget for the cost of dealing with the Judicial Review proceedings commenced by Councillor Gottlieb, as set out in Paragraph 7.7 of the Report, be noted, and that any costs which the Council incurs be paid from the Major Investment Reserve.

## 12. **FUTURE ITEMS FOR CONSIDERATION**

RESOLVED:

That the list of future items, as set out in the Forward Plan for October 2014, be noted.

## 13. **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 Special Cabinet Meeting held 6 August 2014	) Information relating to the financial or business affairs of any particular person (including the authority holding that information).
##	Silver Hill Update (Exempt Appendices)	) (Para 3 Schedule 12A refers)

) Information in respect of  
) which a claim to legal  
) professional privilege could  
) be maintained in legal  
) proceedings. (Para 5  
) Schedule 12A refers)

14. **EXEMPT MINUTES**

RESOLVED:

That the exempt minutes of the Special Cabinet Meeting held 6 August 2014 be approved and adopted.

15. **SILVER HILL UPDATE (LESS EXEMPT APPENDICES)**

(Report CAB2609 refers)

Cabinet considered the exempt appendices which contained details regarding the proposed terms for the letting of the Pharmacy and advice on the terms of acquisition of Friargate Medical Centre.

The Head of Legal and Democratic Services also responded to further questions regarding the legal challenge from Councillor Gottlieb (detail in exempt minute). Following discussion, Cabinet agreed that the Head of Legal and Democratic Services defend the legal challenge on behalf of the Council.

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

RESOLVED:

That the exempt information in the appendices be noted.

The meeting commenced at 10.00am and concluded at 11.20am

Chairman