

CABINET

15 April 2015

SILVER HILL – NOTICE OF MOTION FROM COUNCIL OF 1 APRIL 2015

REPORT OF CORPORATE DIRECTOR

Contact Officer: Steve Tilbury Tel No: 01962 848256

RECENT REFERENCES:

CAB2665 – Silver Hill Judicial Review Decision – 3 March 2015 (part exempt)

CAB2675 – Silver Hill – Review of Project Position – 18 March 2015 (part exempt)

EXECUTIVE SUMMARY:

The report brings to Cabinet for its consideration the motion passed by the full Council on 1 April 2015.

RECOMMENDATIONS:

- 1 That Cabinet notes the views of Council as expressed in the Motion passed unanimously at the Council meeting on 1 April 2015;
- 2 That officers are instructed to continue to undertake those actions necessary to ensure that the City Council complies with its obligations and responsibilities under the Silver Hill Development Agreement;
- 3 That Cabinet agrees it will make no variations to the Development Agreement until such time as the Independent Review of the Silver Hill decision making is completed and its recommendations, if any, are acted upon;
- 4 That two external opinions are obtained on any viability calculations submitted by Henderson which seek to demonstrate that the Financial Viability condition of the Development Agreement is satisfied.

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DETAIL:

1 Introduction

1.1 At its meeting on the 1 April the full Council received a Notice of Motion proposed by Cllr Gottlieb and seconded by Cllr Wright. This is set out in an extract of the Minute of Council (Appendix 1 refers).

1.2 Cllr Tod proposed an amendment to the wording of the Motion which was seconded by Cllr Learney. The alternative wording was accepted by Cllr Gottlieb and the Leader also indicated the support of the administration. The amended Motion was passed unanimously by the Council.

1.3 The Motion agreed by the Council reads as follows:

“That while the Council recognises that the City Council will continue to comply with its obligations and responsibilities under the Development Agreement it calls on the Leader and Cabinet to:

a) make no variations to the Development Agreement until such time as the Independent Review of Silver Hill decision-making is completed and its recommendations, if any, are acted upon.

b) seek at least two external opinions on any viability calculations submitted on any Silver Hill scheme”

1.4 In proposing the Amendment to the Motion Cllr Tod commented that while it was important for the Council to fulfil its obligations under the Development Agreement there was an obligation on Henderson to rebuild confidence in their approach and to explain how all the requirements of the Development Agreement could be met. Anticipating that Henderson may seek to proceed with the “2009 scheme” which includes the bus station and the affordable housing provision set out in the Development Agreement, Cllr Tod identified the external advice on viability as a key issue which would be subject of considerable scrutiny. External advice from two sources would therefore be prudent if Henderson do make a submission.

1.5 Cllr Learney commented that the Independent Review would take a considerable period of time and that it was not sensible to suggest that no action on Silver Hill could or should be taken during that time especially given the Council’s obligations under the Development Agreement. Nevertheless

she urged Cabinet to resolve that no variations to the Development Agreement would be considered in that time.

- 1.6 The advice of your officers is that substance of the Motion is consistent with the Council's obligations under its Development Agreement with TH Real Estate.
- 1.7 Cabinet is therefore asked to consider the recommendations which give effect to the Motion.

OTHER CONSIDERATIONS:

2 COMMUNITY STRATEGY AND PORTFOLIO PLANS (RELEVANCE TO):

- 2.1 The Silver Hill project is one of the Council's major corporate projects and is of great importance to the future prospects of the town centre.

3 RESOURCE IMPLICATIONS:

- 4 The costs of seeking two viability assessments will be initially incurred by the Council which it will seek to recover. This will increase the development costs by an estimated £25,000.

5 RISK MANAGEMENT ISSUES

- 5.1 Officers consider that the wording of the Motion is consistent with the Council's obligations under the Development Agreement and therefore that it creates a very low risk of challenge or creating scope for financial claims against the Council.
- 5.2 Although the costs are incurred wholly and exclusively for the purposes of the development, it is not certain that the Council will be able to recover the cost of two appraisals through the reimbursement mechanism in the Development Agreement. This could result in additional expenditure of up to £25,000.

BACKGROUND DOCUMENTS:

None

APPENDICES:

Extract from the April 1 Council Minute – Silver Hill Motion

MINUTE EXTRACT – COUNCIL, 1 APRIL 2015

1. NOTICE OF MOTION – SILVER HILL DEVELOPMENT

The Mayor agreed to allow consideration of a late Notice of Motion on the Silver Hill Development to be moved by Councillor Gottlieb. The Mayor announced that she was prepared to add this matter to the Agenda as a late item, so that if Council wished, any comments were made in time for Cabinet to consider at its next meeting on 15 April 2015.

To allow this, a preliminary procedural Motion to suspend Council Procedure Rule 9 (1) was required.

Motion (1) Councillor Gottlieb (2) Councillor Southgate

‘That Council Procedure Rule 9 (1) be suspended to allow consideration of a late Notice of Motion on the Silver Hill Development to be moved by Councillor Gottlieb.’

Motion carried

The Mayor indicated that as the Council wished to debate the matter, she would also allow a decision on the Notice of Motion to be made at this meeting, so that Cabinet was able to consider the view of Council at its next meeting on 15 April 2015.

Motion (1) Councillor Gottlieb (2) Councillor Wright

“This Council requests that the Leader and Cabinet resolve to employ all legal and commercial means available to take no further action relating to the Silver Hill development, including any actions that might make the 2004 Development Agreement unconditional, until such time as the Independent Review is completed and its recommendations, if any, are acted upon. Officers and external advisors will be advised accordingly.”

Amendment (1) Councillor Tod (2) Councillor Learney

“That while Council recognises that the City Council will continue to comply with its obligations and responsibilities under the Development Agreement it calls on the Leader and Cabinet to:

- a) make no variations to the Development Agreement until such time as the Independent Review of Silver Hill decision-making is completed and its recommendations, if any, are acted upon.

- b) seek at least two external opinions on any viability calculations submitted on any Silver Hill scheme”

Amendment carried, which now became the Substantive Proposition.

Council took a vote on the Substantive Proposition.

Substantive Proposition carried unanimously.