

CABINET

10 February 2016

Attendance:

Councillor Godfrey - *Leader (Chairman) (P)*
Councillor Weston - *Deputy Leader and Portfolio Holder for Service Delivery (P)*
Councillor Read - *Portfolio Holder for Built Environment (P)*
Councillor Byrnes - *Portfolio Holder for Local Economy (P)*
Councillor Horrill - *Portfolio Holder for Housing Services (P)*
Councillor Miller - *Portfolio Holder for Estates (P)*
Councillor Pearson - *Portfolio Holder for Environment, Health & Wellbeing (P)*

Others in attendance who addressed the meeting:

Councillors Burns, Evans, Laming and Thompson

Others in attendance who did not address the meeting:

Councillors Simon Cook, Jeffs, Gottlieb, Scott and Weir

Mr D Light and Mrs M Gill (TACT)

1. **DISCLOSURE OF INTERESTS**

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, he 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.

Councillor Byrnes declared a personal and prejudicial interest in respect of CAB2754 as he was related to the Head of Fundraising at the Trinity Centre. He left the room during consideration of any matter relating to the Trinity Centre and took no part in the debate or decision thereon.

Councillor Horrill also declared a personal and prejudicial interest in respect of CAB2754 as a trustee of KAYAC. She left the room during consideration of any matter relating to KAYAC and took no part in the debate or decision thereon.

Councillor Thompson also declared a personal and prejudicial interest in respect of CAB2754 as a trustee of the Carroll Centre. However she had left the meeting prior to consideration of this item.

Councillor Gottlieb declared a personal (but not prejudicial) interest in respect of CAB2769 due to his involvement in the 'Winchester Deserves Better' group. Councillor Gottlieb remained in the room for the open sessions of the consideration of this Report, did not take part in public participation and left for the exempt session.

2. **MINUTES**

RESOLVED:

That the minutes of the previous meeting held on 13 January 2016, less exempt minutes, be approved and adopted.

3. **PUBLIC PARTICIPATION**

Two members of the public spoke regarding CAB2769 and their comments are summarised under the relevant minute below.

4. **LEADER AND PORTFOLIO HOLDER ANNOUNCEMENTS**

The Chairman welcomed to the meeting Stephen Fitzgerald, the Council's Interim Head of Finance who had recently started in post.

The Chairman announced that the Department for Communities and Local Government (DCLG) had announced the final finance settlement for 2016/17. Whereas, the provisional settlement was a 42.5% reduction in Revenue Support Grant on the current year, additional transitional grant and rural support grant had been made available, which resulted in a reduction of approximately 34% in 2016/17 (which equated to approximately £600,000). Proposals for the 2016/17 budget would be considered by Cabinet at a special meeting on 18 February 2016.

Councillor Horrill reported that the Council had been shortlisted in two separate categories for national Housing Awards: Outstanding Local Authority of the year; and Outstanding New Build Programme of the year. The awards would be made at a ceremony on 26 April 2016 and she congratulated the Housing Team. On behalf of Cabinet, the Chairman welcomed this news as being testament to the hard work of the Team.

Councillor Byrnes announced that an additional round of small grant applications for one-off activities had been released with a closing date of 7 March 2016. The grants would be up to £500 and would hopefully relate to activities to celebrate the Queen's 90th birthday.

Councillor Byrnes also reported that as Portfolio Holder, he had undertaken to review the Parking Strategy in the coming year. This would be a District-wide review and include consultation with local residents and businesses, together with an occupancy survey of existing car parks. It was hoped to submit a report to Cabinet in June or July 2016.

5. **SILVER HILL REGENERATION – DECISION ON TERMINATION (LESS EXEMPT APPENDICES)**

(Report CAB2769 refers)

The Chairman welcomed to the meeting Lesley-Anne Avis and Akhil Markanday from the Council's legal advisors Berwin Leighton Paisner (BLP).

Cabinet noted that Appendix 3 (a letter dated 8 February 2016 from Hogan Lovells) and exempt Appendix 4 (a response from BLP) had not been notified for inclusion on the agenda within the statutory deadline. The Chairman agreed to accept the items onto the agenda as matters requiring urgent consideration as their contents directly related to the decision before Cabinet.

The Chairman emphasised that the Council had wanted to deliver the 2009 scheme as soon as possible to deliver improvements to the area and it was regretted that it was not now possible for this to be achieved as SW1 had not made meaningful progress. At Council on 28 January 2016, the various options had been fully considered and it had been resolved that Cabinet be recommended to serve notice to terminate the Development Agreement (DA) with immediate effect.

The Chairman stated that it was expected that in the next few weeks Cabinet would further determine that it did not wish to exercise the put option regarding the properties in Kings Walk and a report would be considered by the special meeting of Cabinet on 29 March 2016.

In addition, there remained a commitment to work to retain a doctors' surgery within the city centre. A planning application for a new surgery on the Upper Brook Street car park was currently under consideration. However, construction could only proceed if the practice entered into a building agreement with the Council. The absence of a scheme being progressed under the DA might have an effect on this.

In response to questions, the Head of Legal and Democratic Services advised that since the matter had been considered at Council on 28 January, no further information had been received from Silverhill Winchester No.1 Limited (SW1) to suggest the scheme was able to become unconditional. Further, no submission had to be made to prove the viability of the scheme. With reference to the letter received from Hogan Lovells (SW1's solicitors) and circulated as Appendix 3 to the Report, the Head of Legal and Democratic Services advised that having consulted the Council's legal advisors (BLP), it did not alter the proposals as set out in the Report and agreed at Council.

The Chief Finance Officer advised that Council had received an assessment of the immediate financial impact of a decision to terminate the DA. If Cabinet resolved to terminate, the 2016/17 budget report to be considered at the following special meeting on 18 February would take account of the immediate financial consequences of this decision. In response to questions regarding the relocation of the CCTV office, the Chief Finance Officer advised that this had been fully funded by the Council already and was not dependant on the DA. However, the Council would no longer receive the £700,000

contribution. The current programme made provision for approximately £7m in relation to the future of the Leisure Centre but this, and other proposed projects, would be subject to future decisions.

In response to questions regarding the Hogan Lovells letter (Appendix 3 to the Report), Ms Avis reminded Members that the Judicial Review (JR) related to Cabinet decisions to approve variations to the original scheme (the 2014 variations). As a result of the JR decision, the 2014 variations did not proceed and the scheme continued based on the 2009 scheme. Consequently, the expectation was that the conditions for the 2009 scheme would be satisfied and development would commence on site, irrespective of the outcome of SW1's appeal against the JR decision.

With regard to points made in the Hogan Lovells letter, the Head of Legal and Democratic Services advised that he believed that since the decisions taken in July 2015, there was nothing that the Council had done or should have done, which had impacted on the ability of SW1 to go unconditional under the DA. However, it was possible that there were other factors, outside the control of the Council, which had impacted on this.

The Corporate Director confirmed that the Council believed its policies relating to the Silver Hill area set out in the Local Plan Part 2 were sound, but any challenge against these would be considered by the Inspector. The policy required a comprehensive development for the area, which did not necessarily require development by the same developer at the same time. It did however require that elements for the wider benefit of the public which were unlikely to be funded on a commercial basis (such as public space and a bus station or similar) were secured by the totality of the development. Cabinet also noted that the saved 2006 Local Plan contained a policy relating to the Silver Hill area.

During public participation, Karen Barratt and Patrick Davies addressed Cabinet and their comments are summarised below.

Karen Barratt made reference to comments made by the Leader in relation to the Claer-Lloyd Jones's Independent Review Report as she believed that it was not appropriate to criticise the Report before it had formally been considered at Committee (special meetings of both The Overview and Scrutiny Committee and Audit Committee were scheduled for later that day). She believed that the Leader should apologise for his remarks and withdraw them.

Patrick Davies endorsed these remarks. He also expressed concern about how the Council would proceed in the future if the decision was made to terminate the DA. Specifically, what did the Council wish to achieve on the site and did it wish to see the 2009 or the 2014 scheme delivered? He emphasised that the original consultation documents were undertaken a number of years ago and would require updating as, for example, retail had changed dramatically in the interim.

The Chairman emphasised that no immediate decisions as to future development would be taken and it was recognised that it was not appropriate to rely solely on an assessment carried out 15 years ago. However, the latest retail study was undertaken in 2014. Initial proposals on how a review could be undertaken would be submitted to the special Cabinet meeting on 29 March 2016.

At the invitation of the Chairman, Councillors Laming, Thompson and Burns addressed Cabinet and their comments are summarised below.

Councillor Laming expressed concern about what he believed to be a lack of knowledge regarding the DA and considered that the Council should have decided to terminate the DA in 2015. He made particular reference to the fact that at Council on 28 January it was clarified that contrary to previous advice, the developer would not have 20 working days to satisfy the outstanding conditions on termination of the DA. He believed that the Leader was ultimately responsible and should be held to account. Council officers should also have known.

The Chairman stated that the possible implications of the removal in 2010 of the 20 working day clause had been fully considered at Council on 28 January 2016.

Councillor Thompson generally welcomed the proposed recommendations set out in the Report, whilst expressing some regret that the decision to terminate the DA had not been taken sooner once it had become clear that the 2009 scheme would not be able to proceed. However, she had some concerns regarding Recommendation 4 of the Report and any implication that future decisions would be rushed into without taking adequate time to assess the situation and the findings of the Independent Review Report. She believed that there should be a period of reflection. Full public consultation should be undertaken and there should be a full traffic and movement study for the town centre.

The Chairman highlighted that no decisions as to the wider future of the site would be taken in the immediate future. However, in the short term, decisions were required on whether to retain the Kings Walk/Middle Brook Street properties, and what action to take in respect of the St. Clements Surgery and Friarsgate car park.

Councillor Burns welcomed the proposal to terminate the DA, but believed that it would have been possible for the Council to do this following the JR decision in 2015. She believed that the future development of the site should be put out to competition and a Major Project Team established to oversee the project. Matters such as archaeology of the site should be examined first and the findings of the Independent Review Report should be taken into account.

The Chairman confirmed that the conclusions of the Independent Report would be considered. Following the JR decision, SW1 had stated that they would progress the 2009 scheme and this had been agreed at Council.

Cabinet then moved into closed session to discuss the Exempt Appendices to Report CAB2769 (detail in exempt minute).

Cabinet then returned to open session for debate and to make the resolution outlined below.

The Chairman stated that during the closed session, Members had received assurances regarding the Council's current position and did not believe that these fundamentally changed the proposed recommendations following consideration at Council. Advice had been received that to have terminated the DA earlier might have put the Council at greater risk of challenge. In summary, Members considered that SW1 had been given every opportunity to satisfy the conditions of the DA but they had failed to do so. Therefore, it was considered that the decision to terminate the DA (which had been supported by Council at its meeting on 28 January) should be confirmed.

Cabinet agreed to the following for the reasons set out above, in the exempt minute and as outlined in the Report.

RESOLVED:

1. That the Head of Legal and Democratic Services be instructed to serve notice of termination of the Silver Hill Development Agreement dated 22 December 2004, on the grounds that 1) the Unconditional Date and 2) the Works Commencement Date (both as defined in the Development Agreement) had not occurred by 1 June 2015.
2. That no further action be taken to implement the Compulsory Purchase Order (CPO) in the event that the Development Agreement is terminated.
3. That a decision on whether or not to retain the freehold and leasehold interests within the Silver Hill area which were acquired by the Council in January 2014, together with the budget and estate management implications, be considered at a special Cabinet meeting to be held on 29 March 2016.
4. That a report be brought to the special Cabinet meeting on 29 March 2016 setting out in outline how development might be brought forward on the Silver Hill site in the light of termination of the Development Agreement.
5. That an update report on the possible acquisition of the St. Clements Surgery and construction of a replacement surgery on Upper Brook Street Car Park be considered at the special Cabinet meeting on 29 March 2016.

6. **GOVERNMENT CONSULTATION ON PROPOSED CHANGES TO THE NEW HOMES BONUS SCHEME**

(Report CAB2760 refers)

In response to questions, the Corporate Director advised that it was not yet known whether the Government would apply the proposal to reduce the bonus in circumstances where planning permission for a new development had only been granted on appeal. Cabinet noted that the proposed Council response objected to the principal of reducing bonus payments for homes only allowed on appeal (Question 6 and response).

In relation to the proposed response to Question 12, one Member suggested that although National Parks were separate, it would aid consistency across geographical areas such as the Winchester District if the same policies were to apply. It was agreed that the Council's response to Question 12 be amended to reflect this.

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

RESOLVED:

1. That, subject to the change outlined above, the responses to the proposed changes to New Homes Bonus be approved, as set out in the summary of consultation questions and recommended responses at Appendix A of the Report.

2. That the budget for the New Homes Bonus for 2016/17 be approved and the medium term financial forecast be based on the level of new homes in the Local Plan, adjusted for key risks and the timing difference between the completion of a new home and the bonus payment (Paragraph 6.3 of the Report refers).

7. **HOUSING REVENUE ACCOUNT (HRA) BUDGET 2016/17 AND BUSINESS PLAN**

(Report CAB2761(HSG) refers)

MINUTE EXTRACT FROM CABINET (HOUSING) COMMITTEE HELD 3 FEBRUARY 2016

(Report CAB2771 refers)

Cabinet noted that Report CAB2771 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 to enable it to be considered prior to The Overview and Scrutiny Committee on 22 February 2016 and Council on 25 February 2016.

Cabinet noted that there was still uncertainty regarding Government proposals contained within the Housing and Planning Bill and the budget had therefore be produced on a "worst case" basis. The overall good level of work of the

Housing Team was also commended and particularly the continuation of the new homes scheme and maintenance of the existing housing stock to a good standard.

However, the risks of the impact of future Government proposals were also highlighted. The Assistant Director (Chief Housing Officer) advised that work had started on identifying properties that might have to be sold and the impact of loss of rental. However, this would be mitigated to some extent by additional rental payment received from new Council homes built. A report would be considered at the next Cabinet (Housing) Committee on 22 March 2016 to examine these matters further.

At the invitation of the Chairman, Mr D Light (TACT) confirmed that TACT had nothing further to add to comments made at the Cabinet (Housing) Committee which confirmed they had no objections to the proposals.

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

RECOMMENDED:

- 1. THAT THE HRA REVISED BUDGET FOR 2015/16 AND THE BUDGET FOR 2016/17 AS SET OUT IN APPENDICES 1 AND 2 TO THE REPORT BE APPROVED.**
- 2. THAT GARAGE RENTS FOR TENANTS BE INCREASED BY 4% AND FOR NON-TENANTS BY 10% WITH EFFECT FROM 4 APRIL 2016.**
- 3. THAT THE HOUSING CAPITAL PROGRAMME FOR 2015/16 TO 2020/21 AS SET OUT IN APPENDICES 3 AND 4 TO THE REPORT BE APPROVED.**
- 4. THAT THE PROPOSALS FOR FUNDING THE HOUSING CAPITAL PROGRAMME AS DETAILED IN APPENDIX 5, INCLUDING THE BORROWING REQUIRED FOR 2015/16, BE APPROVED.**
- 5. THAT AUTHORITY BE GIVEN TO INCUR CAPITAL EXPENDITURE OF £9.257M FOR THE MAINTENANCE, IMPROVEMENT AND RENEWAL PROGRAMME AS DETAILED IN THE REPORT AND APPENDIX 3 TO THE REPORT, IN ACCORDANCE WITH FINANCIAL PROCEDURE RULE 6.4 (NOTING THAT WITHIN THIS, FOR ANY SCHEMES IN EXCESS OF £100,000 A FINANCIAL APPRAISAL WILL BE APPROVED IN ACCORDANCE WITH THE SCHEME OF DELEGATIONS).**
- 6. THAT THE ASSISTANT DIRECTOR (CHIEF HOUSING OFFICER), IN CONSULTATION WITH THE HEAD OF FINANCE AND PORTFOLIO HOLDER FOR HOUSING, BE GIVEN DELEGATED**

AUTHORITY TO MAKE ADJUSTMENTS WITHIN THE OVERALL MAINTENANCE, IMPROVEMENT AND RENEWAL PROGRAMME AS SET OUT IN APPENDIX 3 TO THE REPORT, INCLUDING THE FLEXIBILITY TO SUBSTITUTE PROJECTS AND RE-BALANCE EXPENDITURE WITHIN AND BETWEEN THE DIFFERENT ELEMENTS/SCHEMES IN ORDER TO MEET OPERATIONAL NEEDS, CHANGING PRIORITIES AND COMMITMENT TARGETS, WITH ANY CHANGES BEING REPORTED TO COMMITTEE AT THE EARLIEST OPPORTUNITY.

7. THAT THE HRA BUSINESS PLAN SELF FINANCING ASSUMPTIONS AS DETAILED IN APPENDIX 6 BE NOTED AND THAT FORECAST WORKING BALANCES BE APPROVED.

8. PROPOSED GRANT ALLOCATIONS FOR 2016/17

(Report CAB2754 refers)

EXTRACT FROM MINUTES OF THE WINCHESTER TOWN FORUM HELD 20 JANUARY 2016

(Report CAB2770 refers)

Cabinet noted the declarations of interest made by Councillors Byrnes and Horrill and detailed above. Both Councillors left the room for any decision relating to the Trinity Centre and King Alfred's Youth Activity Centre (KAYAC) respectively and took not part in any debate thereon.

The Assistant Director (Economy and Communities) advised that since the Report was published, discussions had continued with Youth Options regarding KAYAC and they were reviewing their options. Youth Options had withdrawn from the core grants process although they intended to deliver an element of their youth services.

One Member queried what scrutiny of partnership organisations was undertaken by the Council. In addition, was there any requirement that organisations receiving core funding to appoint a Councillor as representative.

The Assistant Director confirmed that core funded organisations were monitored and the Council met with them twice annually to discuss performance. The relevant Portfolio Holder and/or nominated Councillor was invited to attend these meetings. The core grants process involved full submission of performance indicators by the organisations. With regard to Member representation, the Assistant Director acknowledged there were some inconsistencies and work was currently ongoing to seek to address this.

With regard to the possibility of future reports to The Overview and Scrutiny Committee, the Assistant Director advised that this used to take place but it would be a question of balancing the administrative burden on an organisation against the benefits. She agreed to discuss this idea further with the Portfolio Holder and Chairman of The Overview and Scrutiny Committee.

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

RESOLVED:

That, subject to the Council's approval of the Budget and Council Tax for 2016/17:

1. The proposed allocations totalling £723,000 for the financial year 2016/17 set out in Appendix 1, be approved, including the significant changes set out at section 5.2 of the Report;
2. Progress in the procurement of a three year support service for the voluntary sector, to start in May 2016, be noted;
3. The continued provision of Core Funding for Winchester Churches Nightshelter and Winchester Rent Deposit Scheme from the central Government grant for preventing homelessness be approved, with Funding Agreements to be administered through the Assistant Director (Chief Housing Officer);
4. The Assistant Director (Chief Housing Officer) be given delegated authority to determine the exact figure to be made available in Core Grants to Winchester Churches Nightshelter and Winchester Rent Deposit Scheme for 2016/17, in consultation with the Portfolio Holder for Housing;
5. The total allocation of £71,000 set out in the Report for Project Grants and Small Grants be approved, and authority delegated to The Assistant Director (Economy & Communities) in consultation with the Portfolio Holder for Local Economy to determine the apportionment of funds between these two grants programmes in order to ensure more effective deployment of the budget;
6. A total allocation of £25,000 (including a virement of £5,000 from the Economy & Arts base budget) be approved, to continue delivery of apprenticeship support grants, access to work grants, micro-business development grants and business start-up grants;
7. An allocation of £10,000 from the Economy & Arts base budget be approved to continue delivery of the cultural grants programme in 2016/17;
8. Any budget for Project Grants and Small Grants for 2015/16 which remains unallocated as at 31 March 2016 be added to the Grants Reserve for emergency applications.

9. **CAR PARKS MAJOR WORKS PROGRAMME**

(Report CAB2758 refers)

One Member asked about the impact of the decision to terminate the Silver Hill Development Agreement (Report CAB2769 and above minute refers) on Friarsgate car park. The Chief Finance Officer advised that it was likely, in the three to five year future period, that the car park would be partially demolished and replaced with a surface car park as a temporary arrangement. The possibility of using the Car Parks Property Reserve to fund this had been considered but not recommended as it would reduce the Reserve to very low levels. Instead it was proposed that the Council use capital receipts.

In response to questions, the Assistant Director (Environment) confirmed that the use of personal CCTV cameras by all Enforcement Officers had worked well. The Chairman congratulated Enforcement Officers for their work and also for their role in promoting Winchester generally.

The Assistant Director advised that there were no current proposals to increase the amount of Park and Ride spaces beyond those proposed at Barton Farm. One Member highlighted the possible impact of a Clear Air Zone in Winchester. Cabinet noted that the review of parking would consider future requirements for Park and Ride alongside other parking provision.

The Assistant Director advised that a feasibility study on the suitability of LED lighting was being carried out and, subject to suitability, it was hoped to upgrade Tower Street car park.

Further to Paragraph 1.8 of the Report, Councillor Miller reported that Bishops Waltham Parish Council had now agreed the management agreement for car parking at Jubilee Hall and thanked the Parking Team for their assistance in this matter.

At the invitation of the Chairman, Councillor Evans thanked the Parking Team for their work in implementing the extension to Wickham Station car park.

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

RESOLVED:

1. That subject to Council approval of the Capital Programme, the Car Parks Major Works Programme for 2016/17 as outlined in Appendix 1, be approved in accordance with Financial Procedure Rule 6.4 (authority to incur capital expenditure) and that the indicative programme for 2017/18 be noted as a basis for planning and preparing future works.

2. That the Assistant Director (Environment) be given delegated authority to make minor adjustments to the programme, in order to meet maintenance and operational needs of the District's car parks throughout the year as required, in consultation with the Assistant Director (Policy and Planning) and the Portfolio Holder for Communities and Transport.

3. That a sum of £80,000 be agreed to continue to replace existing lighting in some of the Council's car parks with energy efficient lighting similar to that which has been installed at Chesil Street Multi Storey car park, with Tower Street being potentially the first car park to benefit from this further investment dependant upon the outcome of condition surveys which will need to be undertaken before works can commence. Other car parks will be considered if sufficient funds remain after the Tower Street works have been completed or if the survey report indicates that such improvements are not deliverable for that car park, with the Brooks being next for consideration.

4. That a sum of up to £30,000 be agreed for the purchase of re-deployable (mobile) CCTV cameras to deal with short term anti social behaviour issues and fly tipping where appropriate, which would adhere to the Information Commissioner's guidance and any codes of conduct for using such equipment.

5. That a sum of £30,000 be agreed to continue to replace some of the Council's existing pay machines which have come to the end of their life and are becoming unreliable.

6. That a report on the programme be submitted on an annual basis setting out progress and recommending future priorities.

10. **FUTURE ITEMS FOR CONSIDERATION**

RESOLVED:

That the list of future items, as set out in the Forward Plan for March 2016, be noted.

11. **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 minute of the previous meeting) Information relating to the financial or business affairs of
##	Silver Hill Regeneration – Decision on Termination (exempt appendices)) any particular person (including the authority holding that information). (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)

12. **EXEMPT MINUTE**

RESOLVED:

That the exempt minute of the previous meeting held 13 January 2016 be approved and adopted.

13. **SILVER HILL REGENERATION – DECISION ON TERMINATION (EXEMPT APPENDICES)**

(Report CAB2769 refers)

Cabinet considered the content of the exempt appendices which provided further legal advice on a decision to terminate the DA (detail in exempt minute).

The meeting commenced at 10.00am and concluded at 12.50pm