

CABINET**7 September 2016****Attendance:**

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| Councillor Godfrey - | <i>Leader (Chairman) (P)</i> |
| Councillor Weston - | <i>Deputy Leader and Portfolio Holder for Built Environment (P)</i> |
| Councillor Byrnes - | <i>Portfolio Holder for Transport & Professional Services (P)</i> |
| Councillor Horrill - | <i>Portfolio Holder for Housing Services (P)</i> |
| Councillor Humby - | <i>Portfolio Holder for Business Partnership (P)</i> |
| Councillor Miller - | <i>Portfolio Holder for Economy & Estates</i> |
| Councillor Pearson - | <i>Portfolio Holder for Environment, Health & Wellbeing</i> |

Others in attendance who addressed the meeting:

Councillors Achwal, Bell, Clear, Elks, Gottlieb, Hiscock, Hutchison, Porter, Thompson and Weir

Others in attendance who did not address the meeting:

Councillors Izard and Scott

1. MEMBERSHIP OF CABINET COMMITTEES ETC

At the invitation of the Chairman, Councillor Gottlieb queried whether it was intended that he be dismissed or suspended from all Council Committee appointments and the reasons for this decision. If he was suspended pending an investigation into whether he had breached the Code of Conduct, Councillor Gottlieb requested confirmation that his appointments would be reinstated if it was found that he was not in material breach of the Code.

Councillor Godfrey confirmed that it was intended that Councillor Gottlieb be removed from Committee appointments pending the investigation by the Standards Committee.

RESOLVED:

1. That Councillor Gottlieb be removed from the list of standing invitees of the Cabinet (Local Plan) Committee and the Cabinet (Major Projects) Committee.

2. That Councillor Gottlieb be replaced on the Central Winchester Informal Policy Group by Councillor Weston (who would also chair the Group).

2. **DISCLOSURE OF INTERESTS**

Councillors Godfrey and Humby declared disclosable pecuniary interests in respect of agenda items due to his role as a County Council employee and County Council respectively. 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.

Councillor Humby declared that as he was a member of the Design Jury for Station Approach he would leave the room during any related discussions on that item and not speak or vote thereon (CAB2829 refers).

3. **MINUTES**

Cabinet noted a correction to the minutes of the 6 July 2016 meeting to record that Councillor Thompson had been in attendance and had addressed the meeting.

RESOLVED:

That, subject to correction above, the minutes of the previous meetings held on 6 July and 15 July 2016, be approved and adopted.

4. **PUBLIC PARTICIPATION**

Nick Joynes from the Natural Travel Collection stated that his business had been based at Capitol House, Bridge Street, Winchester for the past five years but he was being threatened with eviction as it was intended to convert the building into residential accommodation. He requested that Cabinet make an emergency Article 4 Direction to protect these premises from being converted. He advised that under new legislation, there was no requirement for planning permission to enable this and highlighted the significant amount of office space lost since these new permitted development rights had been introduced. He had written to Steve Brines MP regarding this matter and been advised that where necessary to protect the local economy, a local authority could make a general Article 4 Direction. Mr Joynes requested that Cabinet take action to prevent the change of use being approved by the Council's planning officers (due for later that week).

The Chairman stated that Councillor Tait had also passed on his support for Mr Joynes and noted advice received from the Winchester BID and Chamber of Commerce was that a great deal of office space was being lost to residential use. The possibility of introducing an Article 4 Direction for central Winchester had been considered earlier in 2016 and significant levels of risks had been raised.

The Interim Managing Director advised that the Council had previously applied to Government for areas to be excluded from permitted development

rights to convert commercial to residential premises, but these had been refused in most cases. A report would be submitted to Cabinet in October 2016 re-examining the possibility of introducing an Article 4 Direction. With regard to the specific request to implement an emergency Direction, the Corporate Director emphasised that there could be significant risks as the financial implications were unknown as compensation could be payable.

During discussion, Cabinet Members were sympathetic to Mr Joyne's request but also mindful of the potential risks. The Corporate Director suggested that officers could examine the case in more detail over the next few days, including discussions with the Portfolio Holder and Chairman of Planning Committee. Cabinet agreed that delegated authority be granted to the Head of Development Control, in consultation with the Portfolio Holder for Built Environment, to make an emergency Article 4 Direction, should this be agreed to be an appropriate response.

Three members of the public and/or representatives from local organisations spoke regarding Station Approach (CAB2829 refers) and their comments are summarised below.

RESOLVED:

That delegated authority be granted to the Head of Development Control, in consultation with the Portfolio Holder for Built Environment, to make an emergency Article 4 Direction in relation to Capitol House, should this be agreed to be an appropriate response.

5. LEADER AND PORTFOLIO HOLDER ANNOUNCEMENTS

The Chairman announced that the Council had received funding for studies into a Heat Network Delivery Unit source at Bar End. If studies proved successful, it was anticipated that the Council would undertake more detailed work and apply for additional grants.

The Chairman reported that on the recent Ministry of Defence announcement that MOD land at Southwick Park would be sold for development for housing. However, the Council's adopted Local Plan Part 2 stated that the area should be retained for employment use and this remained the Council's position. At the invitation of the Chairman, Councillor Clear expressed concern that the proposals were for 1000s of new houses on the site. The Chairman confirmed that he had contacted all local Ward Councillors and emphasised that the LPP2 confirmed that the Council had already adequately identified a five year land supply for housing which did not include the need for land at Southwick Park.

Councillor Horrill announced that the Chesil Street community art project had been launched in Chesil Theatre and would be on display in the Chesil Street extra care building site.

6. **STATION APPROACH – THE WAY FORWARD (LESS EXEMPT APPENDIX)**

(Report CAB2829 refers)

Cabinet noted that the Report 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 consideration prior to being considered by The Overview and Scrutiny Committee on 12 September 2016.

The Chairman stated that on 20 July 2016, Council had raised three main areas of concern in rejecting Cabinet's proposal to appoint Bidder B. In summary, these concerns were:

- 1) The significant demand for new office space which was not currently being met, exacerbated by the impact of permitted development rights for business accommodation to be changed to residential use;
- 2) Concerns regarding the design and proposals;
- 3) Insufficient information regarding traffic in the area.

As outlined in Paragraph 6 of the Report, the Council had commissioned a further traffic assessment which would include examination of the impact of the Car Parking Strategy and the implications of the Strategy for the Carfax development. The Chairman stated that the Report recognised there was broad support for the redevelopment of the area and also believed that the Design Brief remained an appropriate starting point for any development.

In Paragraph 5 of the Report, two alternative options were considered for taking the project forward. Option 1 was to further develop the ideas put forward by Bidder B and was only possible because Bidder B had voluntarily proposed a new clause that would allow the Council to appoint Bidder B to commence the next stage of the design work, but which would allow the Council to decide not to proceed past a certain specified stage (further details provided in Paragraphs 5.2 to 5.4 of the Report). Option 2 was to invite alternative design options and to engage a new architect to interpret the Design Brief (further details provided in Paragraphs 5.5 to 5.9 of the Report).

Three members of the public/representatives from local interest groups spoke during public participation in relation to this item and their comments are summarised below.

Kate Macintosh stated that various stakeholders and consultees had previously urged the Council to precede any briefing of design consultants with examination of traffic movement across the city, but this advice had been ignored. She noted that the Report confirmed that a traffic assessment would be undertaken but did not agree that the existing Design Brief should be retained, as it should follow on from the traffic assessment. She highlighted that the City of Winchester Trust had requested that the on-site parking proposed for the scheme be reduced as the quantity suggested appeared unnecessary given its location next to the train station and bus links. In

summary, she believed the Design Brief was defective and should be renegotiated.

Karen Barratt spoke in support of the retention of the old Registry Office building, emphasising this was supported by Ward Councillors and the local community. In addition, the Design Brief made clear that the possibility of retaining the building should be considered and she expressed concern that its removal could affect the proposed scale of any new development. She understood that the Muslim Cultural Association had expressed an interest in the building and suggested a short term let to this group could be possible.

Michael Carden (City of Winchester Trust) stated that Cabinet Members had been sent a copy of the Trust's advice previously. He emphasised that the Trust's support for the scheme was dependant on its ability to meet the concerns set out, which had been acknowledged in the Design Brief, but then ignored in the previous proposals submitted. He welcomed the plans for a transport assessment to be undertaken but stressed it was important potential solutions were decided before the buildings agreed. He believed that the Council should not rush into future decisions and ensure that the RIBA competitions office was consulted.

The Chairman thanked Mr Carden and the Trust for their advice and confirmed that the RIBA competitions office would be consulted. He acknowledged there was a balance between not rushing ahead and ensuring the project progressed at an adequate pace. He welcomed the recognition of the Design Brief and confirmed that its interpretation would be monitored very carefully.

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

Councillor Bell highlighted the late availability of the Report which had prevented proper consideration by non-Cabinet Members prior to the meeting. She welcomed the proposals for the Transport Assessment but was concerned that this would be completed prior to the wider Transport and Movement Study. She supported comments made above regarding the retention of the Registry Office building as she believed there were many possible future uses for the building. In summary, she believed that Option 1 should not be pursued and the Council should take advice on other options.

Councillor Elks asked that a project board be established to include Winchester BID, local Ward Councillors and residents to ensure the project was developed in a collaborative manner. It was essential that public contributions were taken on board in the future.

The Chairman stated that a Station Approach Forum had previously met involving local stakeholders (including those mentioned by Councillor Elks) and it was anticipated more meetings of this Forum would be held in the future.

Councillor Thompson also expressed concern about the late availability of the Report and she had asked for an explanation from the Interim Managing Director about the reasons behind this. She believed the Report was biased towards Option 1 which would be contrary to the decision made at Council on 20 July 2016. Instead, she considered the Council should consider other options to take the scheme forward. She welcomed the proposed Transport Assessment but emphasised the requirement to wait for the wider Transport and Movement Study. She stated that to qualify for the LEP funding, the Council must have a fully funded design and noting that the full cost of the scheme was estimated to be £62 million, she queried how this would be funded.

The Chairman acknowledged concerns regarding the late availability of the Report but stated that the content had been informally discussed with Opposition Members prior to its publication.

In response to questions, the Interim Managing Director advised that if Cabinet decided on Option 2 as set out in the Report, this would involve the appointment of an architect through a competitive process. The method for this could either be through an open process following an advertisement, or through a framework process. Officers would explore both possibilities, but it was likely the open process would be favoured in order to involve as many possible architect firms as possible. The Head of Legal and Democratic Services confirmed that the legal implications of selecting Option 1 or Option 2 were set out in the exempt appendix to the Report.

Cabinet then considered each of the Report recommendations in turn and firstly agreed its support for the strategic objective that the Station Approach Area should be redeveloped (Resolution 1 below).

The Chairman stated that the Council had entered into a process of Competitive Dialogue with a Design Competition in good faith, in the belief and expectation that this would produce competitive high quality designs which would be appropriate for Winchester, and this site in particular.

However, the low score given by the Design Jury and the reaction of the Council to the concept submission now suggested that there would be a need to make changes to the concept design in order to make it a design which the Council was able to proceed with. Given the terms of the contract that would be entered into with Bidder B if the current procurement were to be continued, any changes which might be sought would have to be assessed against those terms to consider whether or not they would be permissible. The potential scale and nature of the changes that might be needed, and alluded to by Councillor Thompson, was such that the Council could not be certain that these changes could be made if the current procurement process were to be followed and a contract awarded to Bidder B.

The Chairman emphasised that Cabinet believed that Bidder B was a firm of sufficient standing and expertise that it could change its current design to meet the issues that have been, and would have been, identified. However,

Cabinet considered that if it were to let a contract to Bidder B under the current procurement process, it might not be legally possible to make those changes. Accordingly, Cabinet would not in any way rule out the possibility of Bidder B or any of the other tenderers from being shortlisted again under the new procurement.

It was therefore proposed that the Council should not award a contract pursuant to the current procurement process, but instead to start a new procurement process on a different basis, which would allow discussions and public consultation during the process of preparing and refining a design. As a result, he was proposing that Cabinet agree not to pursue Option 1, but to choose Option 2 instead and start a new procurement process on a different basis, which would allow discussions and public consultation during the process of preparing and refining a design. This was agreed.

Following the decision not to pursue Option 1, Councillor Humby re-joined the meeting at this point (having left the room at the start of this item) and spoke and voted on subsequent decisions on this Report.

In addition, at the invitation of the Chairman, Councillor Hutchison (a former member of the Design Jury) addressed Cabinet at this point. She welcomed the opportunity to participate constructively in moving the project forward and reiterated the request made by Councillor Elks above that a steering group be appointed with membership from local stakeholders, ward Members and residents. She did not consider that the previous Station Approach Forum had operated adequately and a new Panel or Steering Group should be established to take the project forward.

In discussion of Recommendation 4, Cabinet requested that the appropriate procurement process should be decided upon following consultation with the RIBA Competition Office.

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

RESOLVED:

1. That the strategic objective that the Station Approach Area (including the Carfax and Cattlemarket sites) should be redeveloped to promote sustainable economic growth and improve the public realm in the area be confirmed.
2. That Option 1 be not proceeded with, for the reasons outlined in the minutes, and accordingly no contract be awarded following the design competition process.
3. That Option 2 be selected as the basis of taking the project forward (as outlined in Section 5 of the Report) and the principle of redeveloping the Station Approach Area based on the existing

Design Brief be supported, to be informed by further work of the traffic assessment as it emerged.

3. That the reasons for not awarding a contract pursuant to the design competition process be confirmed as outlined above, so that tenderers can be informed.

4. That the Assistant Director (Estates and Regeneration), in consultation with the Leader, be authorised to determine the appropriate procurement route to implement Option 2 (including selection of a framework agreement if appropriate), selection and evaluation criteria, any necessary evaluation matrix, contract 'gateway' points, and any minor changes to the Design Brief.

7. **EFFICIENCY PLAN 2016-20**
(Report CAB2827 refers)

At the invitation of the Chairman, Councillors Thompson and Weir addressed Cabinet with regard to this Report and their comments are summarised below.

Councillor Thompson expressed concern that it offered a bad deal for Winchester with a £1.5m reduction in Government grant which would result in Council Tax increases of 24%, if no savings or additional income sources were found. It was unclear what would be the impact on the Revenue Support Grant currently received by Town and Parish Councils and the effect on the Winchester Town Forum. She expressed concern about any suggestion that it would be necessary to sell council homes and stated it was unclear what proportion of business rates or new homes bonus could be retained by the Council. She believed the Council required improvements to its Property and Investment Strategy and should examine alternative sources of income, such as renewable energy schemes.

The Chairman highlighted that previous reports on this subject had been considered by Cabinet on a number of occasions. The Plan set out the Council's response to funding changes proposed by the Government. Councillor Horrill confirmed that there was no intention by the Council to sell off Council houses. A series of Housing briefings for Councillors had been arranged on the Government proposals and to consider the Council's response.

Councillor Weir expressed concern that the Plan only offered a few options for the Council as she believed there were additional options available, such as investing in renewables. She had attended the recent Councillor briefing on Housing and considered that this had highlighted the pressure on the Housing Revenue Account and that it would be difficult to avoid the need to sell off council houses.

The Chairman noted that there were a number of differing elements of the Plan involving different Council services. He was therefore recommending

that the Portfolio Holder for Business Partnerships examine the various aspects of the Plan in order to ensure a coordinated approach. This was agreed.

Councillor Humby stated that he would initially work internally with Council Officers to examine opportunities for savings and additional income, before consulting externally with Council partners.

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

RESOLVED:

1. That the draft Efficiency Plan 2016 – 2020 be approved.
2. That delegated authority be given to the Corporate Director (Professional Services) in consultation with the Leader to further develop the Plan to include targets for revenue savings and income prior to the Efficiency Plan being submitted to Government in October 2016.
3. That the Portfolio Holder for Business Partnerships coordinate the Council's response to the Efficiency Plan.

8. REVIEW OF SAFEGUARDING – POLICIES, PROCEDURES AND PROTOCOLS

(Report CAB2831 refers)

Councillor Byrnes thanked the Assistant Director (Organisational and Service Development) and Team for their work in producing the updated Policies, Procedures and Protocols.

At the invitation of the Chairman, Councillor Porter expressed concern that complete paper copies of the Appendices had not been supplied to all Councillors. She believed that the safety of staff should also be addressed and there should be a strengthening of the knowledge of both Members and officers. She highlighted the impact that anti-social behaviour could have on children (e.g. the impact of the behaviour of neighbours). She also believed all Councillors should be DBS checked due to their position of trust (all County Councillors were checked). Finally, she considered the resource implications should be made clearer.

Councillor Byrnes highlighted that all Councillors have access to the Report, including the Appendices via the Council's website (and all the procedures etc would be available online) and did not consider it necessary to also provide in paper form.

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

RESOLVED:

1. That the Overarching Safeguarding Policy, Reporting Procedures, Protocol and Practices attached as Appendix 1 to the Report be approved.

2. That the following detailed Policies, attached as Appendices 2-5 inclusive) be approved:

- (a) Safeguarding Children, Young People and Vulnerable Adults Policy;
- (b) Missing, Exploited and trafficked (including Modern Slavery and Child Sexual Exploitation) Policy;
- (c) Prevent Policy and Procedure;
- (d) Domestic Violence and Abuse Policy.

3. That all Council staff, Members and volunteers undertake training to respond to safeguarding issues, the level of training required being commensurate to their need according to their roles as set out in Appendix G to the Overarching Safeguarding Policy.

9. **BUSINESS IMPROVEMENT DISTRICTS: THIRD BID BALLOT AND RENEWAL ARRANGEMENTS**

(Report CAB2833 refers)

The Head of Economy and Arts advised that Section 6.2(b)(iv) of the Report stated that the Council would not recharge the cost of the BID levy collection to the BID. However, Officers were aware of the BID's intention to reduce overheads and officer expenditure and she requested that Cabinet approve an amendment to Recommendation 5 of the Report as follows:

“That Cabinet delegates authority to the Head of Revenues to determine the extent of the recharge of the cost of the Winchester BID levy collection from the Winchester BID body.”

At the invitation of the Chairman, Councillor Achwal addressed Cabinet and in summary welcomed the ballot to determine whether there would be a third Segensworth BID. She queried why Fareham Borough Council was acting as lead authority in respect of the Segensworth BID and whether this meant the Council were concentrating on the Winchester BID. She asked whether the Council would assist Whiteley businesses in creating their own BID, highlighting the large number of businesses in that area and the current traffic difficulties in the area.

The Head of Economy and Arts explained that with regard to the Segensworth BID, there were 257 business premises within the Fareham Borough Council

area, compared with 13 within the City Council's area. However, she worked very closely with those involved with the Segensworth BID, including regular attendance at meetings. Winchester City Council Officers also regularly attended Whiteley Business Forum meetings and would work with them should they wish to establish a BID in the future.

Councillor Humby confirmed that he also had met with businesses in Segensworth and Whiteley, and in his County Councillor role was examining the parking issues in the area.

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

RESOLVED:

1. That the principle of a BID Ballot in 2017 to determine whether there will be a third Segensworth BID be supported.
2. That the Head of Legal and Democratic Services be authorised to agree that Fareham Borough Council should act as lead authority for the purpose of the Business Improvement Districts (England) Regulations 2004 (as amended) for any ballot in respect of the Segensworth BID.
3. That the Head of Revenues be authorised to make arrangements for Fareham Borough Council to continue to collect the Segensworth BID levy, should the Ballot be successful.
4. That the principle of a BID Ballot in 2017 to determine whether there will be a third Winchester BID be supported.
5. That authority be delegated to the Head of Revenues to determine the extent of the recharge of the cost of the Winchester BID levy collection from the Winchester BID body.
6. That both BID companies be informed that in the current local authority financial situation the Council cannot commit to the continuation of the baseline services set out for the BID business plans throughout the life of the BID;
7. That officers be instructed to bring back a further report to Cabinet on the draft business plans and exact areas for each BID so it can consider whether to confirm its continued support prior to any BID Ballot.

10. **ABBOTTS WALK PLAY AREA**
(Report CAB2828 refers)

In response to questions, the Head of Legal and Democratic Services confirmed that he had been involved in discussions regarding the Report's recommendations and agreed the procurement process proposed.

The Head of Landscape and Open Spaces advised that the play area would be located to the right hand side of the balancing pond as shown in Appendix 1 of the Report. The pond was owned by a management company and concerns expressed about the possibility of fencing the pond off had been referred to them. The landscaping of the play area would aim to encourage children to stay within the area and the grass would be cut around the pond to make its location more clear. The consultation events undertaken had included drawings to involve children in the process.

In response to questions, the Head of Finance advised that it had not yet been decided within which budget the maintenance contribution would be held, although he confirmed ongoing funding would be from Section 106 monies.

At the invitation of the Chairman, Councillor Hiscock welcomed the report and thanked the Officers involved in the project for the proposals and for carrying out a good consultation exercise.

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

RESOLVED:

1. That the Head of Landscape and Open Space be authorised to procure the laying out and installation of a play facility at Abbots Walk, Winchester, in accordance with the Financial Procedural Rules.
2. That authority be given under Financial Procedure Rule 7.2 for a supplementary capital estimate of up to £79,655 for the project, and under Financial Procedure Rule 6.4 for the expenditure to be incurred.
3. That the £79,655 developer sum secured under the Section 106 agreement for the development (planning application (11/01798 FUL) be released for the laying out and installation of the play facility.
4. That a Direction be made under Rule 2.4 a) of the Contracts Procedure Rules and the Head of Landscape and Open Spaces be authorised to enter into contracts with the suppliers referred to in the report for the supply and installation of the necessary equipment.
5. That the consequential baseline revenue expenditure requirement of £2910 be noted and that this will initially be funded from the Section 106 commuted sum which is expected to last for approximately 20 years.

11. NEW COMMITTEE REPORT TEMPLATE

(Report CAB2834 refers)

In response to questions, the Corporate Director (Professional Services) confirmed that in addition to the new Report Template, Corporate Management Team were working towards a system with a longer term forward plan enabling better agenda planning into the future and hopefully minimising the requirement for late reports. He would expect Portfolio Holders to be consulted on proposed reports early on and agree contents prior to publication.

The Chairman requested that the new Report template be circulated to all Councillors for their views prior to its introduction and any comments received by reviewed by him prior to introduction. In addition, once introduced, it would be reviewed after six months. The Corporate Director advised it was intended to introduce the new template for all Reports from October Cabinet onwards.

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

RESOLVED:

1. That the Corporate Director (Professional Services), in consultation with the Leader, be given delegated authority to approve the final version of new committee template, following consultation with Councillors.

2. That a review be undertaken after six months of the introduction of the new Committee Report template.

12. MINUTES OF THE CABINET (TRAFFIC AND PARKING) COMMITTEE

(Report CAB2830 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 on 26 July 2016 be received.

13. FUTURE ITEMS FOR CONSIDERATION**RESOLVED:**

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

14. 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> |
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| ## | Station Approach – The Way Forward (Exempt appendices) |) Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings. (Para 5 Schedule 12A refers) |

15. **STATION APPROACH – THE WAY FORWARD (EXEMPT APPENDIX)**
(Report CAB2829 refers)

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

RESOLVED:

That the contents of the Exempt Appendix be noted.

The meeting commenced at 10.00am and concluded at 12.40pm

Chairman