

COUNCIL

28 January 2016

SILVER HILL REGENERATION – FURTHER UPDATE

REPORT OF SILVER HILL PROJECT MANAGEMENT TEAM

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RECENT REFERENCES:

CAB2665 – Silver Hill – Judicial Review Decision, 3 March 2015

CL110 – Silver Hill – Development Agreement with Silverhill Winchester No.1 Limited, 18 June 2015.

CAB2700 - Silver Hill - Submissions By Silverhill Winchester No 1 Ltd and Council's Response, 13 July 2015 (part exempt).

CAB2752 – Silver Hill Winchester – Situation Report and Assessment, 2 December 2015.

CAB2755 – Silver Hill Regeneration – Status Report, 13 January 2016.

CL122 – Extract of Minutes of Cabinet held 13 January 2016

CL123 - Extract of Minutes of The Overview and Scrutiny Committee held 18 January 2016

EXECUTIVE SUMMARY:

This report updates Members on the Silver Hill project following consideration of report CAB2755 by Cabinet and The Overview and Scrutiny Committee. It includes an estimate of the potential resource implications of the various options available to the Council, and further legal advice on the implementation of the Compulsory Purchase Order.

RECOMMENDATIONS:

- 1 That Council supports the proposed approach of Cabinet (set out below) to the future of the Development Agreement

“That SW1 be informed that Cabinet is minded (subject to consideration of the views of The Overview and Scrutiny Committee and full Council, and a further report back to Cabinet on 10 February 2016 for a final decision to be taken) to decide that unless the Unconditional Date (as defined in the Development Agreement dated 22 December 2004) has occurred by 9 February 2016, the Council will serve notice to terminate the Agreement pursuant to Clause 24.1 on the grounds that the Development Agreement had not gone Unconditional by 1 June 2015”

- 2 That Council recommends that Cabinet takes no further action to implement the CPO if the Unconditional Date (as defined in the Development Agreement) has not occurred by 10 March 2016.

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DETAIL:

1 Introduction

- 1.1 At its meeting of 13 January 2016, Cabinet considered a report on the Silver Hill project (report CAB2755 refers). The report was also considered by The Overview and Scrutiny Committee on 18 January.
- 1.2 An extract from the Minutes of Cabinet of 13 January 2016 is set out in Report CL122 elsewhere on the agenda. Report CL123 contains an extract of the Minutes of The Overview and Scrutiny Committee in respect of its consideration of the main report.
- 1.3 Report OS137 included various Appendices, including further correspondence on the matter which followed the issue of the main CAB2755 report:-
 - a) Appendix B - Letter dated 12 January 2016 from Hogan Lovells (SW1's legal advisors) to BLP (the Council's legal advisors). (Note – this is now an 'open' report having previously been discussed as CAB2755 Exempt Appendix 5 in exempt business at Cabinet).
 - b) Appendix C – BLP response dated 15 January 2016 to Hogan Lovells letter of 12 January 2016.
 - c) Appendix D - Letter dated 15 January 2016 from Leader to SW1.
- 1.4 Members should therefore refer to CAB2755 and its Appendices (which set out the various options available to the Council and the relevant considerations to be taken into account), together with the minutes of Cabinet and The Overview and Scrutiny Committee (CL122 and CL123 refer).
- 1.5 Exempt Appendix 4 to CAB2755 contains legal advice on the various issues. Exempt Appendix 2 to this Report includes further legal advice on the implementation of the Winchester City Council (Silver Hill) Compulsory Purchase Order 2011 (CPO), which should also be considered.
- 1.6 Council is asked to consider the proposed approach of Cabinet to the future of the Development Agreement and the CPO so that Cabinet can then make final decisions at its meeting of 10 February 2016.

2 Resource Implications

- 2.1 Exempt Appendix 1 to this Report sets out the estimated financial implications of the options available to the Council. The table below provides a summary of the various options.

SUMMARY	
Total Movement in Usable Reserves	# Total by 2023/24 better / (worse) £000
2009 Scheme Unconditional March 2016 (Budget Base Case)	3,490
Option A: Agree to SW1 proposals and extend time under Development Agreement. Serve Notices to Treat to Implement CPO.	2,386
Option C: Terminate the Development Agreement. Serve Notices to Treat to Implement CPO	(15,231)
Option D: Terminate the Development Agreement AND CPO.	(970)
Option R: Retain Kings Walk & Middle Brook St. Properties.	(626)
Option S: St Clements Surgery	(1,222)

Total Movement in Reserves	
2009 Scheme Unconditional March 2016 (Budget Base Case)	3,121
Option A: Agree to SW1 proposals and extend time under Development Agreement. Serve Notices to Treat to Implement CPO.	2,521
Option C: Terminate the Development Agreement. Serve Notices to Treat to Implement CPO	(9,221)
Option D: Terminate the Development Agreement AND CPO.	(1,104)
Option R: Retain Kings Walk & Middle Brook St. Properties.	1,074
Option S: St Clements Surgery	790

3 CPO

- 3.1 One of the issues for consideration is what action (if any) the Council takes in respect of implementing the CPO. Section 5 of CAB2755, and Exempt Appendix 4 to that report, deals in particular with this aspect.
- 3.2 At its meeting of 13 January 2016, Cabinet resolved that a further report be brought to full Council, and thereafter to Cabinet, to consider the service of notices to treat by the Council on all owners and occupiers affected by the CPO.
- 3.3 Accordingly, further legal advice on the implementation of the CPO has been obtained from Leading Counsel, and this is set out in Exempt Appendix 2 to this Report.

4 Planning Permission

- 4.1 Paragraphs 3.5-3.9 of CAB2755 deals with the issue of the existing planning permission for the 2009 scheme. Details in respect of the relevant pre-commencement conditions have been submitted by Silverhill Winchester No. 1 Limited (SW1) and are being considered by the Head of Development Management. Cllr Rose Burns has requested that the application for approval of these details be considered by the Planning Committee, and it is intended that a report on the application will be presented to Planning Committee at its meeting of 4 February 2016 for consideration.
- 4.2 SW1 has commenced work on site with a view to formally commencing the development, in order to comply with the condition in the permission requiring that the development is begun within seven years of the planning permission (i.e. by 9 February 2016). Officers are reviewing the work which has been carried out to consider whether the permission will have been lawfully implemented if the details are approved. The issue of the lawfulness of the works in planning terms is a matter for the Council (through the Planning Committee) as local planning authority, and is not relevant to the Council's position as landowner for these purposes in connection with the Development Agreement.

OTHER CONSIDERATIONS:

5 DISTRICT COMMUNITY STRATEGY AND PORTFOLIO PLANS (RELEVANCE TO):

- 5.1 The regeneration of the Silver Hill area is a much needed revitalisation of a part of Winchester's town centre which is neither aesthetically pleasing nor economically functional. The requirement to provide employment, housing retail premises and improved public realm in a highly sustainable location is set out in the Council's Local Plan and is consistent with the National Planning Policy Framework.

6 RESOURCE IMPLICATIONS:

- 6.1 Appendix 1 to this Report sets out the resource implications of the various options for consideration.

7 RISK MANAGEMENT ISSUES

- 7.1 Appendix 3 to CAB2755 sets out the risk management issues applicable. Exempt Appendix 2 to this Report includes relevant updates as a consequence of the legal advice which has been received.

BACKGROUND DOCUMENTS:

None

APPENDICES:

Exempt Appendix 1 – Estimated Financial Implications.

Exempt Appendix 2 – Further Legal Advice.