

THE OVERVIEW AND SCRUTINY COMMITTEE

8 December 2014

Attendance:

Councillors:

Pines (Chairman) (P)

Byrnes (P)

Cook (P)

Evans (P)

Gemmell (P)

Learney (P)

Power (P)

Sanders

Stallard (P)

Wright (P)

Deputy Members

Councillor Bodtger (Standing Deputy for Councillor Sanders)

Others in attendance who addressed the meeting:

Councillors Humby (Leader of the Council), Godfrey (Portfolio Holder for Finance and Organisational Development), Miller (Portfolio Holder for Business Services), Southgate (Portfolio Holder for Communities and Transport) and Tait (Portfolio Holder for Housing Services).

1. **DISCLOSURE OF INTERESTS**

Councillors Humby and Stallard declared disclosable pecuniary interests in respect of agenda items due to their roles as Hampshire County Councillors. 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.

Councillors Learney, Evans and Stallard also declared personal interests with regard to matters raised in public participation related to the Council's contract with DC Leisure, as were the Leader of the Council and members of the Cabinet respectively during parts of periods referred to in the representation. However, as Report CAB2628 was dealing with options for future consideration, rather than scrutinising past decisions, they considered that there was no conflict of interest. They participated in the subsequent debate and voted.

2. **CHAIRMAN'S ANNOUNCEMENTS**

The Chairman announced that Report CAB2638 – Flooding Informal Scrutiny Group – Recommendations (elsewhere on the agenda) had been considered at the meeting of Cabinet held 3 December 2014 and that its recommendations therein had been generally supported. A formal response from Cabinet would be made in a portfolio holder decision notice in due course.

3. **MINUTES**

RESOLVED:

That the minutes of the previous meeting of the Committee held on 27 October 2014 (less exempt items), be approved and adopted.

4. **PUBLIC PARTICIPATION**

Mr Wilson spoke during the general public participation period further to his concerns, previously raised at the Committee, about the Council's relationship with the contractor and operator of River Park Leisure Centre, DC Leisure (DCL). He highlighted that he had first made his representation to the Committee on 20 January 2014 and that he considered that the Chief Executive's Report responding to the allegations (Report OS112 refers) at the Committee's previous meeting had not fully addressed the issues he had originally drawn to the Members' attention.

Mr Wilson suggested that the Council's financial liabilities with regard to the contract with DC Leisure to manage River Park Leisure Centre were significant. He drew attention to an extension to DCL's contract signed in 2006 which he claimed set a precedent that the Council was liable to pay compensation to the contractor in the event of the facility's closure. Mr Wilson highlighted that in his view this was likely to be based on the annual income achieved by the contractor for the facility (and also Meadowside Centre) which was approximately £2.5 million per annum. Therefore, he believed this had generated potential liability exposure to the Council of approximately £25 million.

Mr Wilson read out selected sections from an email and a letter between officers and the contractor, obtained under Freedom of Information requests, which he considered confirmed the liability for compensation and also for the granting of rights to DCL to design, build operate and manage any new facility. Mr Wilson concluded by advising that following his representations he had requested an External Audit investigation, and a further investigation by senior staff at the Information Commissioner. He was also referring the matter to central Government.

In response, the Chief Executive explained the Council had obtained legal advice when negotiating the contract extensions, and there were circumstances under

the original contract when compensation may have been payable for an extended closure. However, the figure of £25 million as exposure liability under the current contract was hypothetical and was not recognised. In addition, he explained that there had never been any provision for, or commitment to DC Leisure to be given a design, build operate contract (DBOM) for a new build facility. This would not be permissible under EU Procurement law. The Chief Executive also reported that he was unaware of any notification of investigation by senior staff at the Information Commissioner or external audit.

The Chief Operating Officer demonstrated to the Committee that Mr Wilson had been selective in quoting from the email that he had obtained by reading out the email referred to in full. He also pointed out that the letter made it clear that any negotiations with the contractor would be subject to the provisions of EU procurement law. The Committee noted that this altered the interpretation of the comments contained therein.

The Chairman thanked Mr Wilson and suggested that he formally respond in writing to him with regard to the outcome of the Committee's consideration of Report OS112, detailing the further related matters of concern that he had raised.

5. **PERFORMANCE MONITORING UPDATE – PORTFOLIO PLANS MID YEAR 2014/15**

(Report OS115 refers)

The Committee noted that the Report contained mid year performance information for the Leader; Business Services; Environment, Health and Wellbeing; and Communities and Transport Portfolio Plans.

The Leader and the Portfolio Holders present responded to questions from the Committee with regard to the detailed performance information. Members wished both Councillors Warwick and Weston well, as both had been unable to attend the meeting as they were recovering from recent medical treatment. Where appropriate, Officers and the Leader assisted with discussion of their respective Portfolios.

Councillor Southgate advised that he had contacted Stagecoach for an indication of the cost of running the bus services likely to be cut. This would provide an idea as to whether any subsidies might be available to assist in retaining some key routes. There might also be a possibility of utilising the Park and Ride buses to assist. Councillor Southgate also reported that some discussions had been held with South West Trains and with a neighbouring Council with regard to income generation potential for the CCTV control room. He also undertook to consider further a suggestion that there might be potential to hire out CCTV equipment etc to the Market Towns and rural communities.

During discussion, the Head of Economy and Arts confirmed that the jobseeker mentoring initiative commissioned from Sova was a district wide initiative and the

service was currently in the early stage of recruiting mentors. It was clarified that this was a different service to that currently in operation at the Winchester Discovery Centre.

The Leader also advised that he would investigate whether the Council's support of the National Skills Academy for Construction (to support training and job opportunities arising from the North Whiteley MDA) could be expanded to also include the Barton Farm development.

The Joint EHDC/WCC Client Team Manager explained that a review of the existing Air Quality Action Plan for Winchester would be undertaken with partner organisations, having regard to traffic management plans and related studies. He also acknowledged, following discussion, that the Joint Waste Resources Action Plan and the Joint Environmental Services Committee should consider how to best sign-post businesses to recycle their waste.

RESOLVED:

That the performance information contained in the Report be noted.

6. **DRAFT PORTFOLIO HOLDER PLANS 2015/16**
(Report CAB2633 refers)

A Member suggested that consultation on the draft Plans should ideally be inclusive of all parish councils, in a similar way to that undertaken for the Community Strategy and also the Council's General Fund Budget. The Leader undertook to investigate this, having regard to the timetable for their compilation and approval by the Council.

The Committee referred to the draft Portfolio Plans and raised a number of issues and asked detailed questions. Where appropriate, responses were given as summarised below:

- (i) Leader Portfolio Plan 2015/16
- It was explained that various milestones related to the Silver Hill project would be added in due course, once the outcome of the planning decision was known. These would be monitored accordingly, including by the Committee. Councillor Humby also explained that capital projects referred to within the Plans would be prioritised as the Capital Programme was developed.
 - The Chief Executive detailed how the new interpretation project for Hyde Abbey was to be developed, in consultation with the Hampshire Cultural Trust, Hyde900 project and Professor Martin Biddle.

- The Leader explained that, through economies of scale, the Destination Plan for Winchester would look to continue to achieve sustained growth in visitor numbers to Winchester by bringing together various local businesses and groups.
- Following initial consultation with key stakeholders on the Carfax and Cattle Market redevelopment proposals, the Leader explained that a wider resident and community engagement exercise would then take place.
- The continued roll out of superfast broadband to rural business premises across the District was to be maintained. The Council would work with the County Council to ensure that a suitable minimum standard of broadband speed was achieved. Attention was drawn to recent improvements to three exchanges in the Winchester Town area.

(ii) Communities & Transport Portfolio Plan 2015/16

- Councillor Southgate advised that he would report back to the Committee, outside of the meeting, why the Portfolio Plan no longer featured priority actions for Neighbourhood Wardens undertaking community work, in major development areas.
- Councillor Southgate also undertook to give further consideration as to whether the Recommendations of the Domestic Violence Informal Scrutiny Group could feature within the Plan. He drew Members' attention that the Report had yet to be formally considered by Cabinet, although having attended one of its meetings, he recognised that the majority of the ISG's recommendations were likely to be low cost/high value.
- With regard to coach parking, Councillor Southgate recognised the success of the temporary coach parking facility at the old Bar End depot. Investigations for a permanent all-year facility were currently being explored.
- Councillor Southgate reported that the lighting of the Winchester Park and Ride, although dimmed during the late evening, was necessary for security reasons. Investigations were underway as to whether solar panels could be utilised to power the lights.
- Councillor Southgate said that it was not proposed to charge for electric vehicle charging points in car parks, but he would consider the matter.

(iii) Business Services Portfolio Plan 2015/16

- Councillor Miller clarified that, whilst recognising its use by the community, the Guildhall would continue to seek to increase its occupancy and income and therefore reducing its overall costs. He advised that he would

circulate to the Committee the most recent figures demonstrating increased café takings and conference income. Councillor Miller also highlighted that, notwithstanding the work of the Abbey House Informal Scrutiny Group, there were significant design and accessibility issues that were likely to prevent substantial increase in the commercial use of that building.

(iv) Environment, Health and Wellbeing Portfolio Plan 2015/16

- With regard to the “The Great Waste Project” it was explained that there was an ambition to increase recycling rates in general through a number of initiatives. These would increase the number of items that were able to be recycled and also projects to decrease instances of contamination by non-recyclable materials.
- The Chief Executive explained that the recent achievement in establishing Winchester as the first ‘Dementia Friendly’ City in Hampshire, together with the successes of the Supporting Families Programme, would be maintained over time by working closely with partner organisations.

(v) Built Environment & Deputy Leader Portfolio Plan 2015/16

- The Leader clarified that due to continued officer resource pressures, all outstanding, older enforcement issues were to be reviewed to ascertain whether resources may be better utilised in progressing more recent cases.
- The Leader also noted comments raised with regard to ensuring that the Council should continue to express its preference to developers that, in many cases, affordable housing units should be ‘pepper potted’ across development sites to assist with developing more sustainable and mixed communities. It was suggested that this should be expressed in advance of formal planning applications being submitted. Councillor Tait outlined some practical constraints where this approach was not always possible for economic reasons and agreed that the issues should be considered further in a Member briefing session. The Committee’s attention was also drawn to a future report to be considered by Cabinet on implications arising from recent changes to Government policy on developer’s affordable housing thresholds.
- The Corporate Director advised that officers were to discuss with the Portfolio Holder whether an Article 4 Direction for Stanmore as a means for controlling HMOs in the Stanmore area could be progressed at an earlier date than first envisaged. He also clarified that officers continued to liaise with Denmead Parish Council to help coordinate their timetable for the development of its Neighbourhood Plan.

(vi) Housing Services Portfolio Plan 2015/16

- Councillor Tait advised that the success of the Estate Improvement programmes in Winchester had been greatly assisted having been championed in communities by local Ward Members. Officers would help to facilitate similar schemes in other estates across the District. These could also include smaller and mixed ownership areas.
- Councillor Tait also drew Members' attention to the recent stock condition survey which would highlight deficiencies on older stock.

At conclusion of discussion of the draft Portfolio Holder Plans , the Committee raised some general concerns that the Plans were lacking in measurable success criteria and were consequentially difficult to monitor, as were too activity rather than outcome focussed . In addition, the Plans should ideally contain details of corresponding budgets. However, it was commented that, in general the Plans, made individual Portfolio accountability much clearer.

RECOMMENDED:

THAT COUNCIL BE ADVISED THAT, WHILE THE COMMITTEE WELCOMED THE PROGRESS THAT HAD BEEN MADE WITH THE PRESENTATION AND IMPLEMENTATION OF THE PORTFOLIO HOLDER PLANS, FURTHER DEVELOPMENT WAS NEEDED TO FOCUS ON OUTCOMES AND CLEAR SUCCESS CRITERIA SO AS TO ENABLE EFFECTIVE SCRUTINY TO TAKE PLACE TO HOLD PORTFOLIO HOLDERS TO ACCOUNT.

RESOLVED:

That portfolio holders have regard to the comments of the Committee, as set out above, as part of the consultation prior to the Portfolio Plans for 2015/16 being considered for adoption by Council in January 2015.

7. **GENERAL FUND BUDGET 2015/16 – CAPITAL AND REVENUE CONSIDERATIONS**

(Report CAB2629 refers)

Councillor Godfrey introduced the Report and highlighted the context of the financial challenges facing the Council, associated risks and emerging priorities.

In response to questions, Councillor Godfrey pointed out that although a budget of £100,000 had been approved to defend the current Judicial Review proceedings related to Silver Hill, should this and any other legal challenge be

not found in the Council's favour, it would then be likely that the Council might have to review its existing financial strategy and prioritisation of projects.

The Chief Finance Officer explained that cash flow implications (including revenue projections) and associated risks had been analysed with regard to major capital projects such as Carfax. This would also be undertaken as part of individual business cases coming forward. The net revenue impact from capital options was set out in Appendix E to the Report.

During debate, the Committee raised concerns that the New Homes and Affordable Homes Bonus had previously not been utilised to directly benefit only communities affected by new development. Members supported the proposal as outlined in paragraph 3.1.1.2 on page 6 of the Report to limit the amount utilised to support the baseline and also to review what it had previously facilitated, and what it should be utilised for in the future.

The Committee welcomed the progress that had been made in identification of future capital needs and noted that difficult choices would need to be made in the future to take account of the potential revenue implications. It was also noted that there are still some projects, such as the RPLC replacement options and City Offices replacement, which were not yet included in the Programme and where these projects would not be self-financing from the income that they would generate.

RESOLVED:

That Cabinet have regard to the comments of the Committee as set out above.

8. **RIVER PARK LEISURE CENTRE – OPTIONS FOR FURTHER CONSIDERATION**
(Report CAB2628 refers)

The Chief Executive advised that the Committee was being asked whether it wished to comment to the Leader or Cabinet on the approach to developing a business case for three options outlined in the Report.

Rosemary Burns addressed the Committee about the management contract with DC Leisure. She queried whether the reason a management fee had been renegotiated with DC Leisure was to ensure that the contract was removed from Part A to Part B of the procurement rules to avoid the need for procurement? It was also stated that a management fee had not been shown in the schedule of liabilities. She referred to Report OS12 as considered at the Committee's previous meeting on 27 October 2014 and stated that should the Committee be still of the opinion that that it was not necessary for it undertake its own independent investigation of the allegations made by Mr Wilson (with her assistance); then under the Local Audit and Accountability Act 2014, it could ask

the Secretary of State for an independent inspection under best value rules. In particular, the Committee should consider whether DCL had been in breach of its contract with regard to its responsibilities regarding internal repair and maintenance of the facility and consider termination of the contract.

Rosemary Burns also requested a fuller reply to the points she had made at the last meeting and information on progress on the follow up actions to the internal audit report on contract monitoring.

In response to comments made, the Chief Executive reassured Members that the intention in making changes had not been to avoid the application of EU tendering rules. The changes regarding payment of a management fee were made to reduce costs to the Council and were clearly set out in OS112. The Audit Committee had also recently considered an Internal Audit report on the Council's contract monitoring arrangements, and would monitor progress in implementing recommendations. He ended by suggesting this Committee may wish to scrutinise DCL's performance, as they had with other contracts.

The Chairman thanked Rosemary Burns for her comments.

Councillor Humby reported that a timeframe would now be set out to explore options, including discussion and negotiation with partner organisations, such as the County Council and the University of Winchester, having particular regard to affordability before making a decision.

A Member questioned whether the replacement options could be afforded in the context of the wider financial situation and the risk of further Government cutbacks after the General Election in 2015.

The Committee were in agreement that the narrowing of the options available to the Council as set out in the Report was the best way forward, especially as it was now likely that a facility could be kept open to the public throughout. Whilst the longer term aspiration may be for a replacement facility, all related capital and revenue costs should be examined to ascertain whether this could be afforded, and any further spend on consultants should be kept to the minimum necessary until it was known what contributions would be available from the University and County Council .

RESOLVED:

That the proposals as outlined in the Report be noted.

9. **HAMPSHIRE COMMUNITY BANK (LESS EXEMPT APPENDIX)**
(Report CAB2630 refers)

The Chief Finance Officer explained that the local authorities listed in paragraph 3.4 of the Report were those who had indicated their pledge going forward.

A Member suggested that to achieve a yield of 6%, the interest rates that would be chargeable to businesses would be so high that the proposal would not work in practice. However, the Committee generally welcomed the proposals, particularly as a means of supporting local businesses which may otherwise have found difficulty in obtaining support from other sources. Although there was some risk to the Council from the proposals, Members considered that these would be managed over time to minimise them.

RESOLVED:

That the proposals outlined in the Report be supported.

10. **MEMBERS' ALLOWANCES – RECOMMENDATIONS OF INDEPENDENT
RENUMERATION PANEL**
(Report CAB2635 refers)

The Chief Operating Officer advised that Cabinet had agreed to recommend to Council that that the Panel's recommendations be supported, with the exception to not support the option to apply the general inflation increase in the scheme for the 2015/16 Municipal Year i.e. 2.2%.

Councillor Godfrey suggested that in advance of the 2016 elections when the Council size would be reduced, the Council should review how Members currently worked and their support and facilities etc,. The Independent Remuneration Panel would then need to review Members' remuneration in light of this change and whether individual responsibilities and work levels had increased.

The Committee discussed the existing work levels of some Members, in particular those appointed to the Planning Committee. It was noted that the Panel had had regard to this matter through individual representation made to them.

RECOMMENDED:

**THAT THE RECOMMENDATIONS OF THE INDEPENDENT
RENUMERATION PANEL BE NOTED.**

11. **FLOODING INFORMAL SCRUTINY GROUP**

(Report CAB2638 refers)

The Committee noted that the Report had not been made available for publication within the statutory deadline. The Chairman agreed to accept the item onto the agenda as a matter requiring urgent consideration, to allow the Committee to consider the recommendations of the scrutiny review without delay.

Members also noted that Cabinet had considered the ISG's Report at its meeting held 3 December 2014 and had broadly supported the approach taken by the ISG, but it wished to consider the detailed proposals further before making a formal response via the Portfolio Holder Decision Notice process.

As Chairman of the Informal Scrutiny Group (ISG), Councillor Pines drew Members' attention to the various parish community plans related to emergency situations and that the Council should look to utilise this best practice in developing plans in areas where these currently were not available. Once in place, these should ideally be reviewed annually. He also reminded the Committee of the Emergency Planning and Flooding Briefing on Monday 15 December 2014.

RESOLVED:

That the Recommendations of the Flooding Informal Scrutiny Group be supported for implementation through the Portfolio Holder Decision Notice process.

12. **REVIEW OF LOCAL COUNCIL TAX REDUCTION SCHEME**

(Report CAB2623 refers)

RECOMMENDED:

THAT COUNCIL BE ADVISED THAT THE COMMITTEE POSITIVELY SUPPORT THE PROPOSALS AS OUTLINED IN THE REPORT.

13. **WINCHESTER CITY COUNCIL/EAST HAMPSHIRE DISTRICT COUNCIL ENVIRONMENTAL SERVICES JOINT SCRUTINY COMMITTEE - QUORUM**

(Report OS116 refers)

RESOLVED:

That the quorum for the Joint Environmental Services Scrutiny Committee be three Members from either Winchester City Council or East Hants District Council.

14. **SCRUTINY WORK PROGRAMME AND DECEMBER 2014 FORWARD PLAN**
(Report OS111 refers)

RESOLVED:

That the Scrutiny Work Programme and Forward Plan for December 2014 be noted.

15. **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>
##	Hampshire Community Bank – Information Memorandum for Investors) Information relating to the financial or business affairs of any particular person (including the authority holding that information). (Para 3 Schedule 12A refers)
##	Exempt Minutes of previous meeting held 27 October 2014:) Information relating to any individual. (Para 1 Schedule 12A refers)
	• River Park Leisure Centre: Public Representation (exempt appendices)) Information which is likely to reveal the identity of an individual. (Para 2 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)

16. **EXEMPT MINUTE**

RESOLVED:

That the exempt minute of the previous meeting of the Committee held on 27 October 2014, be approved and adopted.

17. **HAMPSHIRE COMMUNITY BANK (EXEMPT APPENDIX)**

RESOLVED:

That the contents of the exempt appendix be noted.

The meeting commenced at 6pm and concluded at 9.30pm

Chairman