

## **THE OVERVIEW AND SCRUTINY COMMITTEE**

**18 January 2016**

**Attendance:**

Councillors:

Simon Cook (Chairman) (P)

J Berry (P)  
Gemmell (P)  
Hiscock (P)  
McLean (P)  
Sanders (P)

Stallard (P)  
Tod  
Thacker (P)  
Wright (P)

**Deputy Members:**

Councillor Thompson (Standing Deputy for Councillor Tod)

**Others in attendance who addressed the meeting:**

Councillors Godfrey (Leader) and Power

**Others in attendance who did not address the meeting:**

Councillors Read (Portfolio Holder for Built Environment), Scott and Weston (Portfolio Holder for Service Delivery)

1. **DISCLOSURE OF INTERESTS**

Councillor Stallard declared a disclosable pecuniary interest in respect of agenda items due to her role as County Councillor. However, as there was no material conflict of interest, she remained in the room, spoke and voted under the dispensation granted on behalf of the Standards Committee to participate and vote on all matters which might have a County Council involvement.

2. **MEMBERSHIP OF SUB COMMITTEES AND INFORMAL GROUPS**

RESOLVED:

That Councillor Warwick be confirmed as the additional Conservative Group representative on the Hampshire Home Choice Informal Scrutiny Group (ISG).

3. **MINUTES**

RESOLVED:

That the minutes of meeting held on 7 December 2015, be approved and adopted.

4. **PUBLIC PARTICIPATION**

No comments or questions were made during public participation.

5. **ANNUAL REVIEW OF INFORMAL SCRUTINY GROUP (ISG) RECOMMENDATIONS**

(Report OS134 refers)

The Head of Policy and Projects introduced the report which provided a 12 month review of the progress against the recommendations of the Informal Scrutiny Groups (ISG) and updates were provided, as follows:

(i) **Fuel Poverty ISG**

It was noted that funds had been deployed to support delivery of Hampshire County Council's 'Hitting the Cold Spots' (HTCS) and WinACC's 'Home Energy Advice Resource' (HEART) schemes which offered support and emergency assistance to residents living with fuel poverty. To date, HTCS had actively supported 41 households in the Winchester District with the targets increasing. The Assistant Director (Economy and Communities) reported that both schemes had proved difficult to implement with take up hard to promote. It was anticipated that whilst take up may not grow hugely, various initiatives put in place should increase activity over the next year. Officers agreed to circulate the figures and targets for the schemes to the Committee in due course.

At the invitation of the Chairman, Councillor Power addressed the Committee in her capacity as Chairman of the Fuel Poverty ISG. In summary, she stated that the management of different technologies (e.g. Heat Pumps) were proving problematic for tenants to use.

In response to questions regarding trials for renewable energy Solar PVs, the Assistant Director (Economy and Communities) reported that the Assistant Director (Chief Housing Officer) was looking at how many Council properties were to be put forward for Solar PVs, taking account of the Government changes to the funding position and that decisions on the Council's approach needed to be reviewed to establish whether to invest in renewables to the exclusion of other programme delivery, such as kitchen and bathroom modernisations.

The Assistant Director (Economy and Communities) reported that the use of Solar PV would be supported at the new Creative Enterprise

Centre at Barfield Close which in turn was part of a wider Solar City initiative led by the Winchester Town Forum.

In conclusion, Councillor Power stated that she hoped the Committee would remain supportive of the outcomes of the Fuel Poverty ISG and agree to carry forward funding to continue supporting households in the District facing fuel poverty and increase thermal efficiency.

(ii) Flooding ISG

Members made reference to the model Community Emergency Plan and suggested that Parish Councils be encouraged to keep and/or develop an emergency plan. It was noted that the Environment Agency provided support, guidance and encouragement to this process and that messages providing updates on emergency situations were also available. In response to questions regarding the measures taken to mitigate flooding, it was reported that flood alleviation action had been carried out (i.e. Water Lane wall), with a review of the Park Avenue defences ongoing. A portable barrier had been purchased for deployment when and where it was required to defend this particular area from future flooding. The high standard of the emergency planning briefings and the progress made to date were congratulated upon by Members.

(iii) Domestic Violence ISG

Members congratulated the Council on the funding of four units of accommodation for those seeking essential refuge. The process of how action was taken forward was discussed due to the serious and urgent nature of the matter and it was noted that a safeguarding training programme would be available from April onwards and awareness would be raised via the Communications and Housing Teams and Adult Services. The Assistant Director (Chief Housing Officer) agreed to provide any additional awareness update in due course, together with details of the Memorandum of Understanding (MoU) between the Council and the Refuge.

(iv) Abbey House ISG

The Chief Operating Officer reported that current priorities for Abbey House were to ensure that the structural fabric of the building was maintained and structurally sound. This would take precedence to other internal alterations.

RESOLVED:

That progress against the implementation of the recommendations of the Informal Scrutiny Groups listed in Paragraph 1.2 of the Report and contained in Appendix 1, together with the actions and comments as set out above, be noted.

6. **GENERAL FUND BUDGET CONSULTATION UPDATE**  
(Report CAB2756 refers)

Councillor Godfrey introduced the Report which had been previously considered by Cabinet at its meeting held 13 January 2016. The Report outlined the results of the consultation period for the coming financial year and the outcome of the Local Government Financial Settlement. It was noted that Hampshire and the Winchester District as a whole had been badly affected by the Government settlement, which was announced on 17 December 2015, setting out a District grant reduction of 42% for 2016/17. This was higher than the Council had previously forecast and further changes were also expected in subsequent years, such as a consequence of the reduction to New Homes Bonus.

Councillor Godfrey set out the changes to the General Fund Budget since the Committee gave consideration to the Cabinet Report on the Medium Term Financial Strategy at its meeting on 26 October 2015.

In response to questions regarding the level of reserves set aside in the General Fund, Councillor Godfrey made reference to the General Fund balance being a contingency to allow for any unforeseen urgent calls on funding that the Council could experience (e.g. a major flooding event). He reminded the Committee of the need to remain prudent and that this matter would continue to be reviewed on an annual basis in the budget process.

In response to questions, the Chief Finance Officer drew Members' attention to Appendix 1 of the Report which set out possible scenarios regarding any Council Tax increases. The Leader also indicated that the general approach over the last 4 years had been to avoid asset sales, unless there was a good business case on a particular disposal, and he would wish to maintain that approach in future years, if possible.

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

**RESOLVED:**

That the update following budget consultation be noted, and the Committee makes no further comments to draw to the attention of Cabinet.

7. **SILVER HILL REGENERATION – STATUS REPORT (LESS EXEMPT APPENDIX)**

(Report CAB2755 refers)

**SILVER HILL REGENERATION – STATUS REPORT – ADDENDUM**

(Report OS137 refers)

**EXTRACT FROM MINUTES OF CABINET HELD 13 JANUARY 2016 (LESS EXEMPT MINUTE)**

(Report OS138 refers)

The Committee noted that Reports CAB2755, OS137 and OS138 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 to enable the Report to be considered prior to the Special Council Meeting on 28 January 2016.

Councillor Godfrey outlined the background to the Report that had previously been considered by Cabinet at its meeting on 13 January 2016. In summary, he advised that in July 2015 the Council and Cabinet had agreed to SW1's proposals to build the 2009 scheme with the funder and housing provider nominated by them. It had been indicated by SW1 that the Development Agreement would go unconditional in 6-10 weeks, but this had not occurred by the end of September. It was noted that the Council had then met with representatives of SW1, who assured the Council that good progress had been made and they expected the Development Agreement to become unconditional and work to commence on site by Christmas 2015. These assurances had not occurred. At this stage Councillor Godfrey referred to the two significant dates: the planning deadline of 9 February 2016 and the date of expiry of the Compulsory Purchase Order (CPO) on 19 March 2016.

Following a request from Cabinet on 2 December 2015, Councillor Godfrey had been asked to write to SW1 to indicate various areas of concern. This letter, together with the response from SW1, are set out in Appendices 1 and 2 respectively to the Report. The letter from SW1 (dated 22 December 2015) gave a clear indication that some changes to the 2009 scheme were essential in order to comply with building regulations, but (in its view) the restrictions from the judicial review judgment meant even these were difficult, if not impossible, to achieve. The letter, therefore, requested that the Council agree not to terminate the Development Agreement before the end of a period of at least nine months after the appeal proceedings were concluded.

Councillor Godfrey stated that, based on Council's decision of July 2015, more recent discussions with the developer and the decision of Cabinet taken on 13 January 2016, the Council should still be aiming for the 2009 scheme to be progressed and the advice from Counsel was that this could be achieved with acceptable minor updates. If the scheme did not go unconditional, it was not possible to retain the CPO beyond the expiry date of 19 March 2016 unless there was funding in place for the costs of implementing the CPO.

Councillor Godfrey made reference to the potential length of the appeal process. The appeal date of 24 May 2016, followed by the outcome, (which

may not be announced for a further number of weeks) and then with the possibility of progression to the Supreme Court by either party, meant that the final decision of the appeal against the Judicial Review decision could take at least 18 months to be determined, based on legal advice. Following this process, with the significant changes to the development indicated by SW1 (such as the removal of the bus station and reductions to the level of affordable housing provision), together with the submission and process of further planning applications, could result in a delay of at least three to four years.

Councillor Godfrey expressed strong concerns regarding the ongoing levels of uncertainty that would inevitably occur with waiting for a development which would be dependent on the results of an appeal process and would require variations to a Development Agreement that had been in place for the last 12 years. Councillor Godfrey considered that any further delay of three to four years would not constitute a good position for the Council or the residents of the Winchester District and he stressed the need for greater certainty in this development going forward. Consequently, he outlined the Options available to the Council and suggested that Options A and B, as outlined in the Report should not be supported.

Councillor Godfrey also drew to the Committee's attention that Option C (termination of the Development Agreement but implement CPO by service of Notices to Treat) would require the Council to make budget provision for full purchase of the properties at a cost of approximately £35 million. A full financial assessment of the impact of this decision was not yet available, but indications were that it might prevent the Council from achieving other schemes in its capital programme, such as Station Approach or a new Leisure Centre. However, implementing the CPO in this way would enable the Council to retain control over the area. A Member Briefing would take place on Monday, 25 January 2016, where financial advice and information would be made available for Members to better assess financial impact of the options and a further report would be issued before the Special Council meeting.

In conclusion, Councillor Godfrey emphasised that there were significant levels of risk to the Council from any of the options outlined. However, a decision was required within the next few weeks and it was proposed that the matter be debated at a Special meeting of Council on 28 January 2016, with a final decision to be made at Cabinet on 10 February 2016. Councillor Godfrey proposed that SW1 should be advised that it should look to making the 2009 scheme unconditional and that Cabinet should consider termination at its meeting on 10 February if the Development Agreement had not become unconditional at that point.

The Chief Executive considered that the Member Briefing on 25 January 2016 and the Special meeting of Council on 28 January 2016 would provide further opportunities for questions on the legal risks associated with the complicated options the Council faced, and the financial implications. A further report on these aspects was being prepared for Special Council.

The Committee's attention was drawn to Report OS137, and the Appendices as set out in the Report which contained a copy of the Resolution of Cabinet held 13 January 2016, a letter dated 12 January 2016 that had been sent by Hogan Lovells (SW1's legal advisors) to BLP (the Council's legal advisors), the response from BLP dated 15 January 2016 to Hogan Lovells' letter and a letter from the Leader to SW1 dated 15 January 2016. The extract of the full minute of Cabinet held 13 January 2016 was also considered by the Committee, as set out in Report OS138. The content of the exempt minute of Cabinet held on 13 January 2016 would be discussed further during the exempt session of the meeting.

One Member queried whether termination of the Development Agreement and any possible legal challenge following this would result in difficulty securing a partner going forward? In response, it was noted that this could prove challenging but that as land at the Silver Hill site would in effect be owned by three main entities; Winchester City Council, SW2 and Stagecoach another option would be that any future development of this area could be made separately or in tandem, which might negate the need to secure a development partner for comprehensive redevelopment. However, this would require a review of planning policies which required comprehensive redevelopment.

Councillor Godfrey indicated that the Council would continue to investigate what it could do to help with the relocation of the St Clements Surgery, whether or not the CPO was implemented. This would require agreement of terms with the landowners and surgery and continued support from the NHS to the rent of new premises.

Councillor Godfrey referred to items in the base budget which would be affected if the Development Agreement was terminated. These included the £5m capital receipt for the Kings Walk properties (subject to any decision made by the Council on the put option); the £700,000 receipt towards the CCTV relocation costs the Council had already incurred; and the licence fee during the development period of £240,000 per annum.

Councillor Godfrey advised the Committee that the Council could retain the Compulsory Purchase Order (CPO) beyond 19 March 2016 deadline, either with the Development Agreement still in place, or for its own use. In response to questions on this matter, the Chief Executive advised that the Council currently had useable reserves of just below £30 million with spending plans against these. Consequently, if Option C was chosen the Council would have to borrow significant levels and/or change its spending proposals under the Asset Management Plan. He confirmed that any borrowing would have to be prudent, affordable and sustainable and that £35 million would result in interest costs in excess of £1 million per annum. It would be necessary to consider if this could be met, in terms of future income streams, asset sales, and any need for further savings on the Revenue Budget, in addition to identifying savings to cover the forecast of a widening future budget gap. Further detail on the financial aspects of borrowing in this respect would be

made available to Members for the briefing meeting scheduled to take place on 25 January 2016 and Special Council on 28 January 2016.

Councillor Godfrey suggested that SW1 should be allowed to bring forward the development within the timeframe outlined by the Cabinet decision on 13 January 2016 and if a decision was taken to terminate the Development Agreement immediately, it might be claimed they were not given every possible opportunity to do so. He outlined that once notice had been issued, SW1 would still have a further 20 working days to make the scheme unconditional. If SW1 did not achieve this within this timescale, the Development Agreement would cease. However, if the scheme did go unconditional during that period, the Development Agreement would continue in force.

In response to questions regarding land value and fluctuations due to the down turn in economy, the Head of Estates reported that compensation values are at the right level and were in accordance with the compensation code.

The Committee then moved into closed session to discuss the Exempt Appendices to Report CAB2755 and the Exempt Minute of Cabinet held 13 January 2016 (detail in exempt minute).

The Committee then returned to open session for debate, during which Councillor Thompson stated that she wished for it be commented to Special Council at its meeting on 28 January 2016, that she was of the opinion that termination of the Development Agreement should occur sooner rather than later and that she did not feel that it was necessary to wait until 10 February 2016 for Cabinet to determine the matter. An earlier Cabinet meeting should be arranged.

At the conclusion of debate, the Committee agreed to make the resolution outlined below, for the reasons set out above, in the exempt minute and as outlined in the Reports and related appendices.

**RECOMMENDED:**

**THAT NO PARTICULAR POINTS BE RAISED BY THE OVERVIEW AND SCRUTINY COMMITTEE FOR THE ATTENTION OF COUNCIL BEFORE IT CONSIDERS WHETHER IT SUPPORTS THE PROPOSED APPROACH OF CABINET (SET OUT BELOW) TO THE FUTURE OF THE DEVELOPMENT AGREEMENT AND THE CPO.**



RESOLVED:

1. That the decision of Cabinet (that SW1 be informed 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) be noted; and

2. That the information contained in Reports OS137 and OS138 (less exempt minute), and the issues raised by Members at the meeting, be noted.

8. **SCRUTINY WORK PROGRAMME AND FEBRUARY 2016 FORWARD PLAN**

(Report OS132 refers)

RESOLVED:

That the Scrutiny Work Programme and Forward Plan for February 2016, be noted.

9. **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>
##	Silver Hill Regeneration – Status Report (Exempt Appendices)	) 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 Cabinet held 13 January 2016	) Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings. (Para 5 Schedule 12A refers)

10. **SILVER HILL REGENERATION – STATUS REPORT (EXEMPT APPENDICES)**

(Report CAB2755 refers)

**EXEMPT MINUTES OF CABINET HELD 13 JANUARY 2016**

(Report OS138 refers)

The Committee noted that Report CAB2755 and OS138 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 the Report to be considered prior to the Special Council Meeting on 28 January 2016.

The Committee considered the content of the exempt appendices which provided further legal advice of the implications of the various options available to the Council and the exempt minute of Cabinet held 13 January 2016 (detail in exempt minute).

**RESOLVED:**

1. That the content of the exempt appendices be noted; and
2. That the exempt minute of Cabinet held on 13 January 2016 be noted.

The meeting commenced at 6.30pm and concluded at 8.50pm.