

**THE OVERVIEW AND SCRUTINY COMMITTEE**

**13 June 2016**

Attendance:

Councillors:

Learney (Chairman) (P)

Griffiths (P)  
Gemmell  
Hiscock (P)  
Huxstep

Laming (P)  
Stallard (P)  
Tod (P)  
Thacker (P)

Deputy Members:

Councillor Ashton (Standing Deputy for Councillor Gemmell) and Councillor Gottlieb (Standing Deputy for Councillor Huxstep)

Others in attendance who addressed the meeting:

Councillors Godfrey (Leader)

Others in attendance who did not address the meeting:

Councillors Bell, Burns, Miller, Humby, Thompson and Warwick

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1. **DISCLOSURE OF INTERESTS**

Councillors Stallard and Tod each declared a disclosable pecuniary interest in respect of agenda items due to their role as County Councillors. Councillor Thacker, whose husband was a County Councillor, also made a similar declaration. 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 on all matters which might have a County Council involvement.

2. **PUBLIC PARTICIPATION**

Mr Chris Higgins (City of Winchester Trust) felt that public endorsement of the Station Approach development would only be secured through a more open and transparent process. He felt that much effort had gone into seeking and following legal advice at the cost of community engagement. He queried why the scorings for each of the different designs remained confidential. He would be circulating a

statement to Committee Members outlining in detail why the decision reached was flawed.

3. **CHAIRMAN'S ANNOUNCEMENTS**

There were no Chairman's announcements on this occasion.

4. **MEMBERSHIP OF SUB-COMMITTEES AND INFORMAL GROUPS ETC**

The Committee was asked to make a number of scrutiny-related appointments.

RESOLVED:

1. That a Conservative Group deputy member on the Environmental Services Joint Scrutiny Committee (with East Hampshire District Council) be appointed at the next meeting; and

2. That Councillors Clear, Izard and Weir be appointed as the Liberal Democrat Group Members on the Performance Management Informal Scrutiny Group.

5. **MINUTES**

RESOLVED:

That the minutes of special meeting held on 23 May 2016, be approved and adopted.

6. **APPOINTMENT OF THE REVIEW OF SCRUTINY INFORMAL SCRUTINY GROUP**

(Report OS150 refers)

At its meeting on 7 December 2015, Members of the Committee supported the formation of an Informal Scrutiny Group (ISG) to consider a review of the Council's scrutiny process and that this should connect with the conclusions following the Independent Review carried out by Clear Lloyd-Jones. The Committee was asked to establish the Review of Scrutiny ISG, agree Terms of Reference for the Group and nominate Members to be appointed onto the ISG.

The Chairman, Councillor Learney, would lead the Group.

## RESOLVED:

1. That proposed Terms of Reference for the Group be drawn up for consideration at the next meeting; and
2. That Councillors Clear, Evans, Griffiths, Huxstep, Learney, Thacker and Warwick form the Group's membership for the 2016/17 municipal year.

7. **STATION APPROACH – REPORT ON DESIGN COMPETITION**

(Report CAB2802 refers)

The Committee considered the 8 June 2016 Cabinet report and draft minute which detailed the outcome of the design competition conducted for the proposed development as part of the Station Approach area and surrounding public realm.

Cabinet had confirmed its intention to take forward the development of Station Approach and had agreed in principle to Bidder B being the preferred architect to take forward the development of Station Approach, subject to that appointment being confirmed in the light of further advice on the legal, financial and design parameters within which the recommended option can be varied to meet concerns expressed.

The Assistant Director (Estates and Regeneration) gave a presentation on how the project came into being, how the design brief was drawn up and the application of the EU Procurement Regulations.

There had been an initial 22 expressions of interest in response to the Official Notice and 5 of these firms had been invited to tender for the work. At the start of the competitive dialogue process (which involved officers, one Member and a RIBA advisor), three bidders remained. One proposed an above ground multi-storey car park which was not felt to be appropriate and thus the bidder withdrew. Underground car parking was felt to be the ideal, despite being much more costly. The schemes from the two remaining bidders were considered to make the most beneficial use of the site as well as best utilise the public transport infrastructure. Whilst an appropriate mix of housing and office accommodation was sought, keeping the height to four storeys would not be out of keeping with other buildings in the area.

Cabinet had stated that whatever scheme was ultimately chosen, it had to be commercially viable with a 20% return on cost. This was assessed during the competitive dialogue process, and as part of the final scoring of the submitted tenders. Assistance was provided to the bidders during the competitive dialogue process by external consultants, and scoring on the design elements had been undertaken by an independent jury appointed by the Council. The commercial

elements of each scheme were also assessed, and put together with the jury scores on the design aspects, in line with the chosen EU Procurement process. In the light of the scores received by the two bidders, the decision was whether to proceed with Bidder B (who received the highest scoring) or not continue with the process (any other decision might be challengeable).

The Assistant Director pointed out that it was important to reach a decision now, as many local companies were looking to actively work with the Council on the proposed development.

He also explained that detailed advice had been obtained on the potential archaeology on the sites. There were the remains of an iron age defensive ditch on part of the site, which had then been used as a burial ground for children. The advice was that it was unlikely that anything else of interest would be found.

Cabinet would be considering the additional information requested at one of its July meetings.

Michael Carden (City of Winchester Trust) felt that the site to be covered by the scheme was now much larger than originally specified and to pursue competition requirements, all other principles had been abandoned. He felt that a design champion needed to be appointed by the City Council to ensure that early design awareness and understanding was in place and duly progressed as the project developed.

Kate Macintosh felt that the process adopted had effectively allowed the brief to be altered. She felt that a full overview and framework plan could have been produced at the same cost as had already been incurred on the design alone. She felt that officers had steered the Cabinet toward accepting Bidder B in too aggressive a way without all the relevant information being available.

The Chairman thanked the three public participants for their comments and raising their concerns. She suggested that Members ask questions and raise concerns on each of the sections contained within the Cabinet report. Points raised were as follows:

#### Competitive dialogue process

Members queried the decision taken and the caveats in the Cabinet resolution. The Leader clarified that following a procurement exercise, Cabinet needed to establish whether it wished to continue, which it did. Cabinet then had to assess whether the Council went with the winning submission from Bidder B. Cabinet did want this, and was satisfied that the proposal was attractive and viable, but certain clarifications were sought for consideration at the July meeting. In response to a further question, the Leader stressed that the Cabinet had to elect

to either proceed with the winning bidder, or start again. It was not open to choose another architect or another scheme. However, if Cabinet was not satisfied with the clarifications which were being sought or deemed the scheme to be unviable, then it would not be pursued.

Members queried the scoring and whether there was a 'pass mark' as such as the scoring was felt to be relatively low. The Assistant Director confirmed that there was not a threshold score as such, and the scoring system was in accordance with the EU Procurement Regulations. He stated that were, however, benchmarks set along the way and a jury could mark harshly or leniently; the important point, though, was that they marked consistently. He also confirmed that the Design Brief had not been shifted or changed, nor had it been lost sight of; it set out the Council's minimum requirements, and the process allowed bidders to produce what they considered to be the best design that could be achieved for the site.

Comment was made that the Council had been reduced to a choice from two which was not felt to be high enough and that the public had been excluded. The Leader stated that one of the finest architectural practices in the world had been chosen and it was not unreasonable for Cabinet to seek clarification on a number of points before deciding whether to make a recommendation to Council. The Assistant Director stressed that the public had been involved in the formation of the original design brief and would be again as the winning scheme was worked up in more detail. He therefore felt that the comment made was not accurate. The Leader added that 500 public representations had been received and that ongoing input would come from the Station Approach Panel. In response to a further question, the Leader confirmed that the cattle market certainly was featured in the winning scheme and that the proposal ensured tree retention.

### Design Brief

Clarification was sought on how much the Brief had evolved. The Assistant Director advised that the competitive dialogue process meant that the schemes had evolved e.g. the contours and shaping of the land became better appreciated and scales were subsequently reduced. He stressed that architects' interpretations of the Brief also evolve over time, but reiterated that the Brief itself had not changed.

### Design Competition

The Leader, in response to questions, said that what was yet to be established included points around the legal flexibility and viability sought, hence more information was requested. As bidders asked for more information and clarification, it was not unusual in such a process to get down to a 'final five' of

interested bidders. The jury was made up of architects, a procurement advisor, Members of the City Council and a member of the County Council staff.

The low jury scores were of concern to Committee Members, and it was felt that the comments from the jury alongside these did not marry up i.e. they were much more favourable than the scoring would suggest. Comment was made that the risk register had not been followed. The Corporate Director (Service Delivery) stated that the Council had been left with two excellent schemes to choose from and that all required processes had been duly followed.

### Consultations

Concerns were raised about the order in which consultations had taken place and that residents' concerns would not be sought at a time that they could be addressed. It was confirmed that working with the County Council and Network Rail, as key stakeholders, came first to ensure that transport strategies were appropriate and deliverable. A public realm strategy could now be worked up, as well as the detail of the car parking strategy so as to ensure the Brief's requirement that there remained similar levels of car parking. The Corporate Director clarified that 'transparency', which had been queried by Committee Members, did not equate to public involvement in the procurement process. Transparency was to ensure that each part of the process was correctly followed, including public consultation at each appropriate stage. The intention was to publicise the scheme as soon as possible, whilst ensuring that the procurement process was not compromised. The service specification had been set by Members. The Head of Legal and Democratic Services added that it would be inappropriate for anyone to see the various companies' interim designs or costings as negotiations progressed.

### Evaluation

Comment was made that a number of aspects of the Brief were not featured in the evaluation scheme and this was felt to be a flaw in the process. For example, scale and reduction of congestion should have points added to or taken away from 'traffic and parking' whilst the scoring system rewarded for large buildings. The Corporate Director said that was not the case, and excessive development attracted negative scoring.

Comment was again made that the low scores and positive evaluation comments did not match up, and appeared to be spread across two different dates. No development appraisal had yet been produced. The Corporate Director advised that the proposals had indeed been the subject of appraisals and that Grant Thornton had now been commissioned to help the Council take the work forward. In response to a request, the Corporate Director would seek guidance as to

whether Overview and Scrutiny Members could see the appraisals whilst ensuring the integrity of the process.

### Decision Making

One Member noted that the Jury had scored the scheme as less than adequate, and asked whether the design could therefore be changed. The Corporate Director confirmed that on the advice received, major changes would not be possible, and that it was not part of the process to redraft the Brief at this stage. Clarification on related points would form part of the next report to Cabinet.

### Further Information

It was confirmed that outcome of the bid of £2.7m to the LEP (as detailed in paragraph 8.1 of the Report) would not influence whether or not the project proceeded but the expression of interest bid of £5m (referred to in the same paragraph) would be for the separate public realm project. The key, though, was to deliver the overall strategy. In response to further questions, Officers referred to large scale schemes that the Council had been successful in delivering over many years and were content that the rigorous process followed would mean similar positive outcomes here.

A number of Members remained concerned at the overall process followed and the low scoring awarded to the two schemes. It was felt that a number of key issues had not been addressed and that public engagement had been severely restricted. Whilst the Committee remained committed to developing Station Approach, many felt the current procurement process followed was unacceptable, given the nature of the scheme that had emerged. The Council was picking a design over a designer, leading to a feeling that the Council was now in a position of constraint. Councillor Stallard did not concur with this view, and felt that neither the process nor designs were 'failed'. She stated that expectations had not been met on one or two points, and was now content that Cabinet was picking up on these outstanding issues.

### **RECOMMENDED (TO CABINET):**

- 1. That Cabinet be advised that the Committee continues to endorse Cabinet's intentions to take forward Station Approach.**
- 2. That Cabinet also be advised that the Committee does not believe that the process has delivered a scheme that it is prepared to endorse.**

(NOTE: Councillor Stallard asked that her vote against (2) above be recorded in the minutes)

8. **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>
##	Station Approach – Report on Design Competition (exempt appendix)	) Information relating to the financial or business affairs of any particular person (including the authority holding that information). (Para 3 Schedule 12A refers)

9. **STATION APPROACH – REPORT ON DESIGN COMPETITION (EXEMPT APPENDIX)**

(Report CAB2802 refers)

The Committee considered the content of the exempt appendix with contained architect's fee proposals.

RESOLVED:

That the exempt appendix be noted.

The meeting commenced at 6.30pm and concluded at 9.45pm.

Chairman