

## **THE OVERVIEW AND SCRUTINY COMMITTEE**

**17 October 2016**

**Attendance:**

Councillors:

Learney (Chairman) (P)

Griffiths (P)  
Gemmell (P)  
Hiscock (P)  
Warwick (P)

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

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

Councillors Burns, Byrnes (Portfolio Holder for Transport & Professional Services), Godfrey (Leader), Horrill (Portfolio Holder for Housing Services) and Pearson (Portfolio Holder for Portfolio Holder for Environment, Health & Wellbeing),

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

Councillors Thompson and Weir

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1. **DISCLOSURE OF INTERESTS**

Having regard to their roles as Hampshire County Councillors, Councillors Stallard and Tod each declared a disclosable pecuniary interest in any matter on the agenda which may have a County Council involvement. Councillor Thacker made the same declaration as her husband was a Hampshire County Councillor. However, as there were no material conflicts of interest, they all remained in the room under the dispensation granted on behalf of the Standards Committee, to participate and vote in all such matters.

Councillor Learney declared a personal interest with regard to an agenda item which tangentially referred to IBM, as her husband and son were employees. She remained in the room and spoke and voted thereon.

2. **CHAIRMAN'S ANNOUNCEMENT**

The Chairman announced that two Special meetings of the Committee have been scheduled on Wednesday 30 November 2016 (to consider the Station Approach End Stage review report for the competitive dialogue process) and also

on Tuesday 28 February 2017 (with regard to the Waste/Grounds Maintenance Contract - options appraisal).

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

RESOLVED:

That Councillors Berry, Tait and Thacker be appointed as the Conservative Group Members on the Housing Delivery/Impact of the Housing Bill Informal Scrutiny Group

4. **MINUTES**

RESOLVED:

That the minutes of meeting held 11 September 2016, be approved and adopted.

5. **PUBLIC PARTICIPATION**

At the invitation of the Chairman, Michael Carden and Chris Higgins addressed the Committee with regard to Station Approach Update (Report CAB2852 refers) their comments are summarised under the relevant agenda item below.

6. **COUNCILLOR GOTTLIEB – MEMBERSHIP OF COMMITTEES**

(Report OS155 refers)

Councillor Gottlieb had been unable to attend the meeting as he was overseas, and therefore he had submitted an email to the committee members, setting out reasons why he considered a decision of the Leader to remove him from Cabinet and Council Committees (pending the outcome of a Standards Committee investigation) and curtailing his contact with officers to be undemocratic and unconstitutional. At the request of Councillor Gottlieb, Councillor Burns addressed the Committee to represent him in his absence.

Councillor Burns referred to Councillor Gottlieb's email and urged the Committee to urgently consider the matters therein.

Subsequent to the meeting, Councillor Gottlieb's email was added as a background document to Report OS155.

Cllr Burns referred to confirmation by the Head of Legal and Democratic Services at the last meeting of the Committee that there was no provision in the Council's Constitution which covered suspension or removal from Council committees, nor was there any precedent of any similar action at the Council.

The Head of Legal and Democratic Services confirmed that the Standards investigation of the complaints made in respect of Councillor Gottlieb's conduct

was ongoing. The investigation was to ascertain whether a breach in the code of conduct had taken place and the surrounding circumstances, and the report from the investigator would be considered by a Standards (Determination) Sub-Committee. The investigation work needed to be thorough, but also timely in terms of resolving the matter. He reminded the Committee that the sanctions available to the Standards (Determination) Sub-Committee did not extend to removal or suspension of a Member, whether this was from Committees or full Council.

The Head of Legal and Democratic Services referred the Committee to paragraphs 5 in the Report which, in summary, highlighted that changes to committee memberships by the Council should be for legitimate reasons only, rather than 'punishment'. Councillor Gottlieb's removal from his Committee memberships was a matter for Council (although the Council is required by legislation to adhere to political balance rules and appoint in accordance with the wishes of the political groups), but as at the date of the meeting, Council had not removed Councillor Gottlieb from these bodies. In the case of Cabinet Committees, however, the rules on political balance did not apply, although non-Cabinet Members were able to attend such meetings at the invitation of Cabinet.

In response to questions during discussion, the Head of Legal and Democratic Services reiterated that Councillor Gottlieb's removal from Cabinet Committee (i.e. his chairing of the Central Winchester Regeneration Informal Policy Group) was by resolution of Cabinet and this had not indicated a time when he may be reinstated to this role. There was no legal definition of the difference between 'removal' or 'suspension'.

Councillor Godfrey referred Members to the minutes of the previous meeting of the Committee (page 3) which had previously discussed Cabinet's resolution and its reasoning for its actions

With regard to any suggestion that Cabinet had resolved to curtail Councillor Gottlieb's contact with officers, the Chairman referred to the Council's Member's Charter which stipulates that officers were all committed to assist Councillors in their work. However, the Head of Legal and Democratic Services and Interim Managing Director clarified that there had been no specific instruction to officers to limit their contact with Councillor Gottlieb.

At conclusion of discussion, the Committee were in agreement that Cabinet had acted appropriately within its powers to make changes to the membership of its Cabinet appointed bodies. Changes to Council Committees were a matter for Council to agree.

**RESOLVED:**

That the content of the Report be noted and no matters be brought to the attention of Cabinet.

7. **STATION APPROACH UPDATE (LESS EXEMPT APPENDIX)**  
(Report CAB2852 refers)

The Committee 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 by The Overview and Scrutiny Committee, prior to its consideration by Cabinet at its meeting on 19 October 2016.

Councillor Godfrey introduced the Report and highlighted that the RIBA Competitions Office would help deliver a new design concept for the proposals which in turn would be widely consulted on.

Michael Carden (City of Winchester Trust) reported that the process described in the report would be helpful in ensuring positive outcomes for the development proposals. He stated that previously, the urban design aspects in the Council's Design Brief had been largely ignored in the process, for example the quantity of accommodation at the site bringing about unacceptable architectural solutions. These requirements should be emphasised and more strictly observed going forward. Mr Carden also stated that there was an apparent absence of strategic thinking overall, notably with regard to transport matters and the consequential impact upon the public realm. However, in summary, Mr Carden was confident that the involvement of RIBA should help 'rebalance' the design brief for the scheme. Mr Carden referred to the recommendations to Cabinet in the Report and suggested that delegations to the Assistant Director (Estates and Regeneration) should perhaps also include input from Councillors. Mr Carden also suggested that the Council's Urban Design Officer should be involved as part of the procurement process.

The Chairman thanked Mr Carden for his presentation and advised that the Committee would have regard to his comments as part of its discussion of the Report.

Chris Higgins commented that previously he had had concerns with aspects of the Design Brief for Station Approach, but this was the first opportunity for full discussions since the end of the first procurement process had released the 'gag' on comments being made about the competitive process. In addition, Mr Higgins spoke of his own personal concerns of unprofessional conduct of officers, including their manipulation of the process. He referred to an email sent to a Council officer suggesting that the Design Jury members had been misled by officers. Mr Higgins also suggested that officers were in general not sufficiently experienced to be able to deal with the matters involved. Mr Higgins highlighted also that the Design Jury had been unable to speak to Cabinet members or with the architects. He raised that if only officers were able to speak with Cabinet, were Members misled? And were officers or Councillors responsible for the eventual outcomes? In addition, he stated his view that incorrect legal advice had been provided to the Council, to the effect that it was not possible to have a

RIBA competition under the EU Procurement Rules. He claimed that it was also unprecedented that more than half the original participants in the competition dropped out of the process and this had caused much consternation among the architectural world. He also stated that the Design Jury had voted for Bidder C's scheme, but all reports were in favour of Bidder B, with no explanation for this. In summary, at conclusion of his presentation, Mr Higgins suggested potential officer maladministration of the process and he requested that the email suggesting impropriety of officers be referred to the Leader.

The Chairman thanked Mr Higgins for his presentation and advised that the Special meeting of the Committee on 30 November 2016 would specifically deal with the scrutinising aspects of the competitive dialogue process and therefore he may wish to attend this meeting accordingly.

The Interim Managing Director referred to the matters raised by Mr Higgins and requested that he substantiate, in writing to him, his serious allegations of unprofessionalism and manipulation and deliberate misleading by officers. With regard to the email referred to by Mr Higgins, he stated that it did not make new allegations but did seem to confirm that the jury had not expected the low scores awarded for design to operate as they had. This could be addressed in the forthcoming report to The Overview and Scrutiny Committee.

The Committee asked a number of detailed questions and Councillor Godfrey, the Interim Managing Director, Assistant Director (Estates and Regeneration) and Assistant Director (Policy and Projects) responded accordingly as summarised below.

- i. The previous procurement process for Station Approach entailed procuring an architect design based on a brief and whilst also seeking to ensure that financial viability (not maximum profitability) was considered. The proposed way forward was different, and comprised a process to obtain expressions of interest from firms of architects, who would then be interviewed by a panel to decide which firms would be suitable to be invited to tender for the work.
- ii. Public parking provision will be in line with the Council's Parking Strategy – and this was articulated in the Design Brief. The competitive dialogue process had previously produced proposals that were not acceptable to the Council.
- iii. The new procurement process would allow changes to be made to the initial requirements of the Brief in response to the design coming out of the process. The new process would allow greater flexibility for the selected architect to work up a deliverable scheme that was widely acceptable as possible.

- iv. Councillor Godfrey pointed out that the Council's Parking Strategy, Traffic Movement Study and other ongoing related work was likely to influence the need for parking at Station Approach and that this aspect of the Brief would evolve during the procurement and design phases. Work already commissioned was looking at the impact of changes to parking demands in Winchester. The Traffic Movement study would be looking to establish a baseline position and it could be investigated whether this could be modelled around parking pricing structures. The Brief would also continue to have regard to the Council's Air Quality Action Plan.

During debate, the Committee acknowledged that the new procurement process offered greater flexibility to deliver a scheme likely to be more acceptable and this was welcomed, as was the ability of the preferred design team to establish ongoing dialogue with the Council. Some Members considered that the evaluation panel should also include local councillor representation to help ensure that the views of local residents were taken into account and for there to be general buy-in from the public. However, it was also considered that the representation on the panel of the City of Winchester Trust, as experts and residents, already achieved this objective. Some Members also questioned whether a similar process overall would be utilised to deliver future redevelopment of the Cattle Market site.

**RECOMMENDED:**

**THAT THE REPORT BE NOTED.**

**RESOLVED:**

That it be Recommended to Cabinet that the Station Approach Evaluation Panel should also include a local ward councillor to help ensure that the views of local residents are taken into account.

8. **RESPONSE TO COUNCILLOR BURNS NOTICE OF MOTION FROM COUNCIL  
13 APRIL 2016**  
(Report CAB2849(MP) refers)

The Assistant Director (Policy and Planning) introduced the Report and drew Members' attention to the various processes already in place at the Council that included, in addition to the Cabinet (Major Projects) Committee, monthly internal programme Management Groups and other performance management processes. As well as helping to ensure that major projects remained on track, they looked to when the Council may be required to commission additional professional expertise, i.e. when it been identified that a particular aspect of a project was outside the existing skill-set or capacity of officers.

Councillor Burns addressed the Committee with regard to the response to her Notice of Motion. Councillor Burns pointed out that when she originally raised her Notice of Motion on 13 April, the Cabinet (Major Projects) Committee had only met once with no other meeting scheduled. There were now more regular timetabled meetings and also that the Council's Risk Register now showed associated risk from it being over ambitious with its projects etc. greatly lowered. However, there was still a need, in her view, for there to be a cross party committee of councillors to monitor and to ensure the success of the Council's major projects.

The Interim Managing Director reminded Members that it was appropriate for the Cabinet to be able to move forward on those projects that it had proposed, with the support of the majority of the Council where necessary. He pointed out the issues that the Independent Review of Silver Hill report had identified with cross-party working and the need for effective scrutiny. It was important for officers to be able to progress projects in the knowledge that Cabinet and a majority of Members supported them.

During discussion, it was considered that existing structures in the Council already allowed for what Councillor Burns was looking to achieve from the Notice of Motion. A Member suggested that an Informal Scrutiny Group could look specifically at how specific projects were 'run' and there was ability for The Overview and Scrutiny Committee to establish a formal and focussed Sub-Committee to act as a 'sounding board' on major project progression. It was agreed that the Committee give further consideration as to whether to establish such a body at its next meeting.

**RECOMMENDED:**

**THAT REPORT CAB2849(MP) BE NOTED AND NO FURTHER ACTION BE TAKEN AS A RESULT OF THE MOTION OTHER THAN THOSE ACTIONS ALREADY BEING PROGRESSED AS SET OUT IN THE REPORT.**

**RESOLVED:**

That the Committee give further consideration at its meeting on 12 December 2016 as to whether to establish a formal and focussed Sub-Committee to act as a 'sounding board' on major project progression.

9. **PERFORMANCE MONITORING UPDATE – PORTFOLIO HOLDER PLANS MID YEAR 2016/17**  
(Report OS154 refers)

Councillors Byrnes, Godfrey, Horrill and Pearson addressed the Committee to introduce their respective Portfolio Plan mid-year reports for 2016/17 and each answered Members questions thereon. Councillor Godfrey also introduced and

answered questions on the Built Environment, Business Partnership & Policy and Economy & Estates Portfolio Plans

The Committee considered the report as part of its role in holding Portfolio Holders to account and also in monitoring the progress that the Council was making towards the outcomes of the Winchester District Community Strategy and the projects included in individual Portfolio Plans. The report also formed part of the regular performance and financial monitoring processes designed to check progress in delivering the Portfolio Plans and performance against identified indicators.

In summary, the following points were raised and questions responded to:

#### **Appendix 1 Leader Portfolio Plan**

- i. Cabinet was to consider the timetable to progress a replacement leisure centre at its meeting on 19 October 2016. It was envisaged that the Council would soon be in a position to procure an architect and for more detailed costings to be delivered. A final decision on a scheme to move forward with could be made next summer.

#### **Appendix 2 Built Environment Portfolio Plan**

- ii. Details of maintenance of Scheduled Monuments were within the Council's Asset Management Plan.
- iii. The Cabinet (Local Plan) Committee had recently reviewed site allocations for gypsies and travellers. These had yet to be finalised and the Leader gave assurances that Parish Councils would be consulted with, and in time to allow them to meet and for their responses to be taken into account as part of an evidence base.
- iv. The Inspector had recommended a review of the existing requirement for 12500 homes to be built in the District, to decide whether or not this was still appropriate. The five year land supply would be maintained but there would always be risk of downturn in delivery.

#### **Appendix 3 Business Partnership and Policy Co-ordination Portfolio Plan**

- v. It was agreed that in addition to there being close liaison with the Church Commissioners with regard to development at Bushfield Camp, local ward Councillors should also be kept informed.

#### **Appendix 4 Economy and Estates Portfolio Plan**



- vi. The Creative Enterprise Centre at Bar End would continue to be developed despite the University of Winchester no longer being a partner. The facility may no longer have a 'creative' focus but would continue as a flexible space.
- vii. The Leader would look to investigate the challenges and opportunities to be presented by 'Brexit' and any specific implications for the district and its economy.
- viii. The Committee acknowledged the positive impact of the work of the Council's Market Town Officer.

#### **Appendix 5 Environment, Health and Wellbeing Portfolio Plan**

- ix. It was acknowledged that national recycling campaigns may not be consistent with the advice given for the Council's local scheme.
- x. Whilst it may be considered that some new-build social housing schemes had small rooms etc, they were built in accordance with Government policy. However, the Council's own new homes were built to a square meterage in excess of this minimum requirement.
- xi. An opportunity to link in with a West Hampshire CCG campaign 'Get Hampshire Walking' to the Council's own 'Feet First' scheme was acknowledged.

#### **Appendix 6 Housing Services Portfolio Plan**

- xii. The Council's Housing Strategy would consider the energy efficiency of existing stock – and what improvements could be made.
- xiii. The Council was investigating ways to improve, in particular, its engagement with younger tenants. Ward Councillors would be involved in this work. Housing Services was also looking at its existing digital interface and whether this could be better targeted.
- xiv. Tenant arrears remained low, but it remained as a key objective of officers to proactively deal with this. This included closely working with other agencies like the CAB.
- xv. The Article 4 Direction in Stanmore had been well received as a mechanism to protect family homes becoming houses let to students etc. Officers were working with relevant ward Councillors to discuss the issue in other areas of Winchester, such as Winnall and Badger Farm.

- xvi. The Committee remained concerned at the impact on the District's Housing services from the Housing and Planning Act and other recent changes to legislation.

### **Appendix 7 Transport and Professional Services Portfolio Plan**

- xvii. The Council would need to be aware of any financial impact from changes to the County Council's agency arrangements with regard to transport management.
- xviii. Current vacancies in the Customer Services centre were being recruited to and this included an apprenticeship scheme.
- xix. The reduction in the Council's sickness absence was commended.

**RESOLVED:**

That the Leader and Portfolio Holder have regard to the matters raised by the Committee during discussion, as summarised above.

10. **MEDIUM TERM FINANCIAL STRATEGY**  
(Report CAB2844 refers)

The Committee 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 by The Overview and Scrutiny Committee, prior to its consideration by Cabinet at its meeting on 19 October 2016.

Councillor Godfrey drew the Committee's attention to the likely cumulative budgetary position going forward and uncertainties of funding sources.

In response to questions, Councillor Godfrey clarified that sensible forecasts were necessary with regard to projects such as the new leisure centre project – to have regard to repayment costs etc.

In recognising the difficult financial position of the Council, it was suggested that Cabinet lobbies MPs to make them aware of the consequences of cuts to local services

**RESOLVED:**

That the Medium Term Financial Position be noted.

11. **SCRUTINY WORK PROGRAMME AND NOVEMBER 2016 FORWARD PLAN**  
(Report OS156 refers)

The Committee referred to the work programme and noted that it had earlier agreed to consider, at its December meeting, whether to establish a sub committee to refer to the Council’s major projects. In light of the number of scheduled agenda items to this meeting, the Chairman agreed to discuss with officers how the Annual Community Safety Partnership Performance Review report was to be presented, i.e. if representatives of the partnership were to be invited to attend as has previously been the case.

RESOLVED:

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

12. **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 – Procurement Process Update (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)
##	Confidential Item – Report by Assistant Director (Estates and Regeneration) (Exempt Report)	)

13. **STATION APPROACH – PROCUREMENT PROCESS UPDATE (EXEMPT APPENDIX)**

(Report CAB2852 refers)

The Committee considered the financial information as set out in the exempt appendix.

RESOLVED:

That the exempt appendix be noted.

14. **CONFIDENTIAL ITEM – REPORT BY ASSISTANT DIRECTOR (ESTATES AND REGENERATION) (EXEMPT REPORT)**

(Report CAB2853 refers)

The Committee 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 by The Overview and Scrutiny Committee, prior to its consideration by Cabinet at its meeting on 19 October 2016.

The Committee considered an exempt report by the Assistant Director (Estates and Regeneration) – details in exempt appendix.

RESOLVED:

That the exempt report be noted.

The meeting commenced at 6.30pm and concluded at 10pm