

THE OVERVIEW AND SCRUTINY COMMITTEE

16 February 2015

Attendance:

Councillors:

Pines (Chairman) (P) (for Items 1-3)
Cook (Chairman for this meeting only) (P) (for Items 4 - 13)

Byrnes (P)
Evans
Gemmell (P)
Learney (P)

Power (P)
Sanders (P)
Stallard (P)
Wright (P)

Deputy Members:

Councillor Tod (Standing Deputy for Councillor Evans)

Others in attendance who addressed the meeting:

Councillors Godfrey (Portfolio Holder for Finance and Organisational Development), Tait (Portfolio Holder for Housing Services), Warwick (Portfolio Holder for Environment, Health and Wellbeing)

Others in attendance who did not address the meeting:

Councillors J Berry, Gosling, Humby (Leader), Izard and Weir

1. **DISCLOSURE OF INTERESTS**

Councillors Stallard and Tod declared a disclosable pecuniary interest in respect of agenda item OS120, due to their roles as a County Councillors and Councillor Tod's position as chairperson for Public Health England. However, as there was no material conflict of interest, both 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.

Councillor Wright, in his capacity as Chairman of Age Concern Hampshire, Councillor Stallard in her position as Chairman of the Hampshire County Council Health and Adult Social Care Select Committee, Councillor Tod in his capacity as a Member of the same Committee each declared personal (but not prejudicial interests) in relation to agenda item 7, the Council's Role in Public Health - Report OS120 refers. All remained in the room, participated in the discussion thereon, and voted upon the recommendations in the Report. The Chief

Executive, Simon Eden, also declared a personal, but not prejudicial interest in relation to agenda item 7 due to his wife's employment at Andover Mind.

2. **CHAIRMAN'S ANNOUNCEMENTS**

The Chairman announced that minutes of the Joint Environmental Services Scrutiny Committee (JESSC) would be taken to future meetings of The Overview and Scrutiny Committee for Members' consideration.

3. **PERSONAL STATEMENT FROM THE CHAIRMAN**

The Chairman, Councillor Pines, gave a personal statement to the Committee.

He advised that following his previous concerns with aspects of the Silver Hill development, specifically levels of affordable housing and public transportation issues and upon reading the recent High Court Judgement, it would be appropriate for a review to be undertaken to establish how the Council reached the current position. Therefore, he urged that a prompt independent external review take place and be formalised by full Council.

Following the completion of the proposed terms of reference by an independent person, a qualified, independent individual be also selected (possibly by recommendation from the Local Government Association (LGA)) to manage the review, which will be funded by the Council. As a result of the judgement, an urgent decision by the Council on how to proceed with a scheme in the best interests of the Winchester District was crucial and that the Committee fully participate in scrutinising the process moving forward.

In light of this statement, the Chairman announced that he no longer felt that he had the support of his colleagues and as a result, considered that it was in the best interests of the Council to resign from his position as Chairman of The Overview and Scrutiny Committee with immediate effect.

Councillor Pines informed the Committee that he would be giving further consideration to his position as a City Councillor.

Councillor Pines duly left the meeting taking no further part therein.

4. **APPOINTMENT OF CHAIRMAN**

The Chief Operating Officer drew attention that, in accordance with the Council's Constitution, and upon the resignation of Councillor Pines as Chairman of The Overview and Scrutiny Committee, the Vice Chairman of the Committee (Councillor Stallard) would be unable to assume the Chair as she was a member of the party which currently formed the Council's Cabinet. Therefore, the Committee agreed that it would appoint a temporary Chairman for the meeting

only, to assume the Chair and that, following this meeting, a new Chairman would be appointed by Council at its meeting on 19 February 2015.

RESOLVED:

That Councillor Cook be appointed Chairman for this meeting of The Overview and Scrutiny Committee.

5. **MINUTES**

RESOLVED:

That the minutes of the previous meeting of the Committee (less exempt minute) held on 19 January 2015, be approved and adopted.

6. **PUBLIC PARTICIPATION**

Mr Wilson, Mr Atkins, Mr Marsh, Mr Farnes, Mr Davies, Mr Challoner and Councillor Tait addressed the Committee. The majority, where noted, spoke in relation to the recent High Court Judgement made with regard to the Silver Hill development.

Martin Wilson spoke in his own capacity and also on behalf of Rose Byrnes, informing of their wish for an independent external review to be undertaken for transparency, following the Council's decision regarding Silver Hill being ruled as unlawful by the High Court. He referred to his ongoing concerns raised at previous meetings of the Committee regarding the Council's relationship with the contractor and operator of River Park Leisure Centre, DC Leisure (DCL) now known as Places for People Leisure (PFPL). Mr Wilson claimed that the Council's involvement in the management contract of the facility was flawed.

In response, the Chief Executive reminded the meeting that the Committee had been satisfied with the conclusions of his investigation of the matter as set out in his report (OS112 refers).

Mr Robin Atkins addressed the Committee and reiterated the point previously raised in relation to the necessity for an independent external review following the Silver Hill judgement. He further requested an estimate of the cost implications expected for the QC, Junior Counsel, legal experts, staff time and those awarded to the Claimant following the judgement. Mr Atkins also made reference to proposed housing development of the Sun Hill site in Alresford, and he suggested that the housing figures produced through the Local Plan process appeared to be flawed.

Mr Peter Marsh spoke in relation to the initial proposal to provide 100 units of affordable housing (20 social rented and 80 intermediate market homes) to form part of the Silver Hill development. The most recent scheme had negated the

provision of affordable housing on the site altogether. This change had now been seen as unlawful. Mr Marsh sought a response in relation to the following questions:

- Review whether it was right for the Council to waive its contractual right to secure affordable housing on this site and to delegate this important matter to the Planning Committee, and does the Council now agree with the judgement that such a decision was indeed unlawful without a full retender of the development partner?
- Can The Overview and Scrutiny Committee establish when the Council's formal position as the Local Housing Authority had altered in relation to City Centre affordable housing, as Councillor Tait (lead member for affordable housing) argued so strongly at the Planning Committee meeting that there was already sufficient affordable housing in the City Centre?
- Can The Overview and Scrutiny Committee review whether it has had access to suitably robust independent advice to scrutinise this matter, or whether it has merely acted as an 'Overview Committee' with very little meaningful Scrutiny at all?

Benjamin Farnes reiterated the concerns expressed by Mr Marsh above, in relation to the revised plans for Silver Hill which omitted all affordable housing provision on site. Mr Farnes referred to the detrimental impact that this decision would have had on those currently unable to afford to live in Winchester.

Patrick Davies addressed the Committee following the Silver Hill Judicial Review decision, with particular reference to the Compulsory Purchase Order (CPO) and the statutory requirements surrounding this matter. Mr Davies sought clarification on how the Council was going to proceed on the basis of the CPO, as in his view changes to the scheme would mean the CPO was no longer valid.

Mark Challoner (prospective Parliamentary Candidate for Winchester for the Labour Party) spoke regarding the role of the Committee and operating in the best interests of Winchester. He asked the Committee to review its scrutiny processes, and consider a themed orientated approach in light of the current position. He suggested independent support was needed, though this was not a criticism of the officers.

Councillor Tait addressed the Committee in his capacity as a Ward Member for St Michael's. He praised the Street Care Team for their help to resolve his previous concerns of commercial refuse bins being left on the public highway. However, he drew attention that there were still some areas where the problem was on-going, specifically Hammonds Passage.

7. **WINCHESTER CITY COUNCIL'S ROLE IN PUBLIC HEALTH**
(Report OS120 refers)

Councillor Warwick drew attention to the changes in statutory responsibility for public health transferring from the NHS to Local Government in April 2013, due to the implementation of the Health and Social Care Act 2012.

As a result of these changes, Strategic Health Authorities and Primary Care Trusts (PCTs) were abolished and 211 clinician led organisations, Clinical Commissioning Groups (CCGs), were formed. Overall responsibility for improving health remained with the Secretary of State for Health with responsibility for national health functions delegated to Public Health England (PHE), recently formed as an executive agency of the Department of Health.

Councillor Warwick explained that a modified Winchester District Health and Wellbeing Partnership Board (WDHWPB) had been established in 2011 to respond to the planned health reforms, working in collaboration with NHS West Hampshire CCG and other statutory agencies and organisations. The Chair of the Board was Dr Andrew Isbister, lead GP for the Winchester locality serving almost 143,000 registered patients. The Portfolio Holder for Environment, Health and Wellbeing was Vice Chairman.

Members' attention was drawn to the local action plan that had been formulated by the Board and reference was also made to relevant aspects of the work of the Equalities Informal Policy Group and Fuel Poverty Informal Scrutiny Group. It was acknowledged that although Winchester District was affluent and very fortunate to not have high levels of poverty, there were pockets of deprivation where this was the case.

Members considered the current position and made specific mention to the ongoing need to broaden and champion Dementia Services to meet increasing demand and heighten awareness in this area. Members welcomed and praised the high quality of work in respect of the activity taken to date.

A Member suggested that relevant public health initiatives should be referred to in each Portfolio Plan.

RESOLVED:

That the information in the report be noted.

8. **TREASURY MANAGEMENT STRATEGY 2015/16**
 (Report CAB2648 Revised refers)
EXTRACT OF MINUTES OF CABINET – 11 FEBRUARY 2015
 (Report CL106 refers)

The Committee noted that Report CL106 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 refer to the comments of Cabinet as part of its consideration of Report CAB2648 (Revised).

The Committee noted that the updated version of Report CAB2648 had been amended to take account of the Silver Hill Judicial Review decision.

Councillor Godfrey introduced the Report and drew attention to the Council's investments being made by the Hampshire County Council Investments and Borrowing team in accordance with the Council's Treasury Management Strategy and supported by the Treasury Management advisers, Arlingclose. The recent Member Training had also highlighted changes in the external banking context and the Report also set out approved investment counterparties and associated limits, in response to this. Councillor Godfrey also explained that the Council had up to £50million to invest and the Strategy had proposed further options with regard to this.

The Chief Finance Officer drew Members' attention to the substantive changes from the original report which were set out in bold. The impact of the Silver Hill judgement was explained, including to the Council's financial position going forward.

The Committee raised a number of issues and asked detailed questions. Where appropriate, responses were given as summarised below:

(i) The Chief Finance Officer explained that the Strategy set out options with regards to risk associated with investment opportunities. The Council would continue to consider the security of investment as paramount, rather than the yield. Indications showed that the Council was currently managing a suitable balance between associated level of risk and level of return.

(ii) With regard to Table 3 in paragraph 5.6 on page 9 of the Report (Approved Counterparties and Limits), Councillor Godfrey explained that the revised investment limits provided the Council with greater flexibility and that it would seek to achieve the most assured borrowing rates. He invited both this Committee to analyse, and the Audit Committee to monitor, this area of the Strategy further as the importance of the matter was recognised.

(iii) The Chief Executive clarified that Arlingclose had been appointed as the Council's Treasury Management advisers following a competitive tendering process.

RECOMMENDED:

**THAT THE TREASURY MANAGEMENT STRATEGY 2015/16
AS SET OUT IN REVISED REPORT CAB2648 BE NOTED.**

RESOLVED:

That the content of the extract of minutes of Cabinet held 11 February 2015 be noted.

9. **BUDGET AND COUNCIL TAX 2015/16**
(Report CAB2647 Revised refers)
EXTRACT OF MINUTES OF CABINET – 11 FEBRUARY 2015
(Report CL106 refers)

The Committee noted that Report CL106 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 refer to the comments of Cabinet as part of its consideration of Report CAB2647 (Revised).

The Committee noted that the Report was an updated version of CAB2647 and had been amended to take account of the Silver Hill Judicial Review decision.

Councillor Godfrey introduced the Report and he drew the Committee's attention that only the immediate impact of the Judicial Review had been reflected in the budget. In summary, the bearing on the Revenue Budget was minimal, although in subsequent years this would become more significant. Councillor Godfrey referred Members to paragraph 7 on pages 8 - 9 of the Report, which highlighted the immediate financial implications of the decision.

Councillor Godfrey emphasised that the revised report still proposed a balanced budget for 2015/16, with no increase to Council Tax or reduction to front line services. Reserves were to be maintained and where appropriate, service improvement was proposed, such as to street care and in providing assistance to the District's most vulnerable residents. The Council would continue to look to maximise the use of its operational property to benefit both the local economy and also from achieving income to the Council. He referred to significant projects that the Council was looking to progress, which he emphasised should be undertaken without delay. With regard to other income to the Council (in

particular from Government receipts) a cautious approach was to be taken. For example, the new Homes Bonus was to be capped at current rates so as to ensure that the Council did not become over reliant on this as a source of income. Additional income to the Council had also been achieved in recent times from the localisation of retained Business Rates and this had been boosted by the success of the local economy. However, the Council was aware that any change to government policy may impact on this as a source of continued income.

The Chief Finance Officer drew Members' attention to the substantive changes from the original report which were set out in bold. Attention was also drawn to the importance of setting a budget for 2015/16, particularly because of the extremely limited timeframe associated with the preparation of Council tax bills. The particular changes to the level of the General Fund Budget for 2015/16 as set out in Recommendation 2 (as highlighted in bold) were explained. In summary, the Chief Finance Officer explained that there was a net cost of £177,000 in 2015/16; an increase in the forecast deficits over the 5 year period of £732,000; and reductions in the forecast usable revenue reserves of £629,000 and usable capital receipts reserve of £870,000, when compared to the Original budget projections.

The Committee raised a number of issues and asked detailed questions. Where appropriate, responses were given as summarised below:

(i) Councillor Godfrey confirmed that the budget projections assumed income lost following the closure of Friarsgate car park due to its disrepair.

(ii) The Chief Finance Officer explained that costs associated with the Judicial Review (i.e. payment of costs to the challenger) had been previously included in the budget, prior to the outcome of the decision. This had included provision in 2014/15 for the Council's expected share of defence costs. The Revised budget for 2015/16 proposed an additional £200,000 which covered £100,000 towards legal and review costs, with the remainder to be utilised to move the scheme forward. However, the additional budget may not be sufficient to cover a full assessment of options for the site.

(iii) With regard to the Capital Programme, Councillor Godfrey explained the costs going forward associated with the Carfax project. These included forecast costs with the building of the scheme following the public consultation exercises. The project would need to be advanced as soon as possible as the Council would rely on the income to be achieved from the scheme. Councillor Godfrey clarified that each major project within the Programme had been timetabled appropriately and according to the respective decisions required to be made.

(iv) The Chief Finance Officer explained that currently there were no significant receipts for the Community Infrastructure Levy (CIL). These were currently below £30,000 and would be accounted for correctly at outturn and then eventually dispersed according to the Council's CIL policies. To date, there had not been a significant number of schemes coming forward attracting CIL. A budget would be set for expenditure as and when the proposals were developed.

(v) The Chief Finance Officer reported that administration costs related to Affordable Housing contributions were to be reviewed. Accordingly, there may be a corresponding reduction in future years.

(vi) Fluctuations in the forecasting of car park income were largely due to the various capital projects in the town area.

(vii) A Councillor raised concerns that the revised budget as set out did not include sufficient budgetary commitment required to change areas of the Council's work that had been criticised recently. For example, it was felt that it should look to improve processes related to major projects, consultation (including on how to take forward Silver Hill), liaison with developers, and with partner organisations. The Council should also look to review how it currently scrutinises Cabinet decisions. The Chief Executive advised that a review of the Council's Scrutiny processes was unlikely to require significant additional cost as advice could be sought on best practice through the Local Government Association.

(viii) A Councillor also suggested that in view of the urgent need to approve a budget for 2015/16 at the Council meeting on 19 February 2015 to support Council Tax, it was likely that a revised budget would need to be brought forward early in the new financial year. This was necessary to allow the Council to move forward with its other major projects. The Council should also undertake this work by working with residents and without being overshadowed by the Silver Hill ruling.

RECOMMENDED:

**THAT THE BUDGET AND COUNCIL TAX AS SET OUT IN
REVISED REPORT CAB2647 BE NOTED.**

RESOLVED:

That the content of the extract of minutes of Cabinet held 11 February 2015 be noted.

10. **HOUSING REVENUE ACCOUNT 2015/16 BUDGET AND BUSINESS PLAN 2015/16 – 2044/45**

(Report CAB2652 (HSG) refers)

MINUTE EXTRACT FROM CABINET (HOUSING) COMMITTEE HELD 4 FEBRUARY 2015

(Report CAB2662 refers)

EXTRACT OF MINUTES OF CABINET – 11 FEBRUARY 2015

(Report CL106 refers)

The Committee noted that Report CL106 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 refer to the comments of Cabinet as part of its consideration of Report CAB2652 (HSG).

Councillor Tait introduced the Report and drew attention to the detailed relevant discussions of the Cabinet (Housing) Committee.

In response to questions from the Committee, the Assistant Director (Chief Housing Officer) advised that the Housing Repairs budget had benefited in recent years from capital receipts from property disposals, some Section 106 funds income and also DCLG grant. He reminded Members of the benefits associated with the Housing Revenue Account's (HRA) self-financing arrangements. The Chief Finance Officer explained requirements for borrowing to support the repairs programme and the new build programme. Members also noted the existing ring fencing of the HRA and 'two pool' approach to allocating borrowing. In summary, the impact of the General Fund from the management of the HRA was neutral.

The Assistant Director also clarified that the Kitchen and Bathroom replacement programme had been amended since it was originally proposed in 2012. This had been revised following assessment of requirements for the Council to achieve the 'decent home standard' for its stock. It was seen that investment in the fabric of buildings should be prioritised over the replacement programme, albeit some capital had been retained for this purpose.

Councillor Tait undertook to supply to a Councillor the detailed costings associated with the Chesil Extra Care facility.

Councillor Tait welcomed comments from a Member that the HRA should continue to highlight those aspects of its projects and day to day work associated with the health and wellbeing of residents. He reminded the Committee of the requirement within local plan policies for the Council to build new Council houses to Code Level 5 for sustainability and energy efficiency, which was extremely beneficial to residents.

RECOMMENDED:

**THAT HOUSING REVENUE ACCOUNT BUDGET FOR 2015/16
AND THE BUSINESS PLAN 2015/16 TO 2044/45 BE NOTED.**

RESOLVED:

That the content of the extract of minutes of Cabinet (Housing) Committee held 4 February 2015 and Cabinet held 11 February 2015 be noted.

11. **SCRUTINY WORK PROGRAMME AND MARCH 2015 FORWARD PLAN**
(Report OS111 refers)

A Member suggested that the Council should look to review its scrutiny processes in light of the recent Silver Hill Judicial Review decision. The review process could include bench making other similar local authorities scrutiny processes.

In response to further discussion, the Chief Executive suggested that the Council would be looking to undertake an independent review of the processes leading to the decisions around Silver Hill. The scope of the review would be agreed in consultation with Group Leaders and the outcome of the review would be reported to The Overview and Scrutiny and Audit Committees. Further to a suggestion, the Chief Executive agreed that it was appropriate for a review of Scrutiny processes be undertaken during the second half of the 2015/16 Municipal Year and be scheduled within the Committee's future work programme accordingly.

RESOLVED:

1. That the Scrutiny Work Programme and Forward Plan for March 2015 be noted

2. That a review of the Council's Scrutiny processes be undertaken during the second half of the 2015/16 Municipal Year and be scheduled within the Committee's future work programme accordingly.

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 100(I) and Schedule 12A to the Local Government Act 1972.

<u>Minute Number</u>	<u>Item</u>	<u>Description of Exempt Information</u>
##	Exempt Minutes of previous meeting held 19 January 2015: River Park Leisure Centre (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)

13. **EXEMPT MINUTE**

The Committee considered the exempt minutes of the previous meeting of the Committee held on 19 January 2015 (detail in exempt minutes)