

Decisions taken by the Cabinet on Wednesday, 22 July 2020

Agenda Item No	Topic	Decision	Reasons	Alternative Options
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Part A – Items considered in public

A7	Nitrate Neutrality - Update	<ol style="list-style-type: none"> 1. That the current position in relation to nitrates is noted and that Cabinet agree to the proposal to collect off-site financial contributions (by S106 obligation) towards mitigation solutions which will be delivered either by the City Council or in partnership with another agency (to start with immediate effect). 2. That Cabinet confirms its support for proposals by the Partnership for South Hampshire to address nitrates issues (see paragraphs 11.11-11.12). 	<p>Cabinet received a report in January 2020 about 'Nitrate Neutrality' (CAB3219) and the issues this was causing in terms of permitting housing developments. The requirements of the Habitats Regulations and recent European case law regarding their interpretation meant that housing development could not be permitted within the catchment of the Solent unless it would avoid an increase in the discharge of nutrients to the Solent. As a result it was not possible at that time for the Council to grant new planning consents across the district, for housing or other development involving</p>	<p>The Council could choose not to investigate or take forward the initiatives mentioned above, or not to support the Partnership for South Hampshire (PfSH) proposals. This would lead to continued uncertainty over how the nitrates issue will be resolved, and delay to development if applicants cannot demonstrate nitrate neutrality or a deliverable mitigation scheme. This is an unsatisfactory situation for all the reasons explained above, including the longer term implications for housing land supply, the Council's housing programme, and the Housing Delivery Test.</p>
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Winchester City Council Council – Decisions taken by the Cabinet on Wednesday, 22 July 2020

Agenda Item No	Topic	Decision	Reasons	Alternative Options
		<p>3. That a further report be brought to Cabinet in twelve months up-dating progress made on the nitrate neutrality issue.</p> <p>4. That Winchester City Council pursues the issuing of Environment Agency permit limits on Southern Water Treatment sites in the district.</p>	<p>overnight stays. Cabinet agreed a 'Position Statement' on the issue and asked for an update in 6 months time, which is the purpose of this report.</p> <p>Since the Position Statement was agreed the Council has been granting planning consents, where appropriate, subject to a 'Grampian' condition. This limits occupancy of the dwelling/overnight accommodation until it is demonstrated that the development will either not result in a nitrates increase, or will mitigate it. This report sets out the scale of development affected and updates other matters relating to the nitrates issue, including initiatives to enable</p>	

Winchester City Council Council – Decisions taken by the Cabinet on Wednesday, 22 July 2020

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			<p>development to proceed.</p> <p>It is recommended that Cabinet supports the proposal to start collecting off-site financial contributions towards mitigation solutions which will be delivered either by the City Council or in partnership with another agency.</p> <p>It is also recommended that Cabinet confirms its support for proposals by the Partnership for South Hampshire for a strategic mitigation scheme and project officer.</p>	
A8	Waste Contract extension	1. That an exemption to contract procedure rules (CPR) be approved in accordance with paragraph 41 of the CPR in the council's constitution.	Following a competitive tendering process, the Council has awarded the waste collection services to BIFFA under a new contract which is due to commence 1 October 2020. Mobilisation	Consideration has been given to commencing as planned at October 2019 utilising existing vehicles and deferring the introduction of the new vehicles and additional recycling services.

Winchester City Council Council – Decisions taken by the Cabinet on Wednesday, 22 July 2020

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		<p>2. That an extension of the existing waste contract with BIFFA until 31st January 2021 be approved due to supply chain delays in provision of new vehicles due to Covid 19.</p> <p>3. That authority be delegated to the Strategic Director (Services), in consultation with the Cabinet Member for Service Quality and Transformation and the Service Lead – Legal, to negotiate, prepare and enter into final documentation to complete the extension and later commencement date of the new contract.</p>	<p>plans had been progressing well. However, as a result of the impact Covid 19 has had on many areas of the economy, the delivery of new vehicles required for the new contract has been delayed. This report therefore recommends an extension to the current waste contract and a revised start and end date for the new contract of 1st February 2021 and 31st January 2029, the same start date that the charged for garden waste is due to commence.</p>	<p>This would result in the Council paying for services before they were introduced and did not offer reasonable value for money to the Council.</p>

Winchester City Council Council – Decisions taken by the Cabinet on Wednesday, 22 July 2020

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		<p>4. That £150,000 of the savings resulting from this decision be used to further support the implementation of the improved Garden Waste service.</p>		
<p>A9</p>	<p>Leisure Centre update - impact of Covid-19 (less exempt appendices)</p>	<p>1. That the termination of the existing operator management contract with Places for People Leisure Management Ltd (Places Leisure) for River Park and Meadowside Leisure Centres be approved due to circumstances related to the COVID-19 emergency from 31 August 2020 based on the heads of terms set out in exempt appendix 3 of report CAB3249.</p>	<p>The two leisure centres operated by Places Leisure on behalf of the council have been closed since the start of lockdown in March 2020. The COVID-19 crisis has significantly altered the economics of leisure centre operations in the short term by massively reducing the income they can generate whilst still incurring significant ongoing building, security, energy, maintenance and staffing costs. This means that the cost to the council will significantly increase,</p>	<p>Option A is for the centres to re-open in September 2020 and for the Places Leisure contract to continue until the procurement of a new operator for Meadowside Leisure Centre and the permanent closure of the River Park Leisure Centre. This is the simplest option but is more costly than Option C and a settlement agreement has previously been negotiated with Places Leisure to terminate their contract early with WCC.</p>

Winchester City Council Council – Decisions taken by the Cabinet on Wednesday, 22 July 2020

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		<p>2. That the budget of up to £345,000 expenditure associated with the leisure centre contract termination be approved, which includes maintaining the River Park and Meadowside Leisure Centres during the closure period and up until 31 August 2020.</p> <p>3. That authority be delegated to the Strategic Director – Place in consultation with the Cabinet Member for Sport, Leisure and Communities and Deputy Leader and Cabinet Member for Finance and Risk, final negotiation of a settlement agreement</p>	<p>even if centres remain closed.</p> <p>Access to sports and leisure facilities is crucial for the residents of the district to support health and wellbeing in these difficult times. This is a key priority in the Council Plan. This report details actions to enable continuity of leisure centre service provision as well as supporting the long term success of the new Winchester Sport and Leisure Park and Meadowside Leisure Centre in Whiteley.</p> <p>The report recommends urgent short term changes to the leisure operator management arrangements for River Park Leisure Centre and Meadowside Leisure</p>	<p>Operational transition would occur when RPLC closes and WSLP opens which make this less viable for a new operator to deal with as contract transition and contract mobilisation occur simultaneously.</p> <p>Option B considers keeping the leisure centres closed with the Places Leisure contract to continue until the procurement of a new operator for Meadowside Leisure Centre and the permanent closure of the River Park Leisure Centre. Although this is a simple option, and the cost is estimated to be less than Option C, there would be a negative impact on community health and wellbeing and the operation of the new leisure centre as</p>

Winchester City Council Council – Decisions taken by the Cabinet on Wednesday, 22 July 2020

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		<p>based on the heads of terms in exempt appendix 3 of report CAB3249 and the Service Lead Legal to prepare, agree and enter into the relevant contractual arrangements to terminate the operator contract with Places for People Leisure Management Ltd and associated agreements such as any lease and/or licence or transfer or novation arrangements.</p> <p>4. That the interim appointment of Sports and Leisure Management Ltd (Everyone Active) as operator of River Park and Meadowside</p>	<p>Centres. This will be informed by Government guidance and will ensure provision of service prior to the opening of new Winchester Sport & Leisure Park in spring 2021.</p> <p>The severe financial implications of the COVID-19 pandemic on the leisure sector is a serious national issue that has been raised at government level by local government and private sector representatives. It has affected all public leisure centres in the UK, whether they are outsourced or still managed in-house. Despite the government announcement on 9 July that centres may open from the 25 July, at time of publication of the report there has been no specific financial support</p>	<p>well as potential reputational damage due to facilities remaining closed. Operational transition will occur when RPLC closes and WSLP opens which make this less viable for a new operator to deal with as contract transition and contract mobilisation occur simultaneously. The Council's leisure facilities will remain closed until the new centre opens which will have an impact on the start up of the WSLP as customers will move to leisure centres in neighbouring districts. Also, a settlement agreement has been negotiated with Places Leisure to terminate their contract early with WCC.</p> <p>Option D proposes that the leisure centres remain closed until the Winchester Sport</p>

Winchester City Council Council – Decisions taken by the Cabinet on Wednesday, 22 July 2020

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		<p>Leisure Centres from 1 September 2020 be approved, based on the heads of terms in exempt appendix 2 of report CAB3249 until the procurement of a new operator in Meadowside Leisure Centre and the transition of operation from River Park Leisure Centre to the new Winchester Sport and Leisure Park.</p> <p>5. That authority be delegated to the Strategic Director – Place in consultation with the Cabinet Member for Sport, Leisure and Communities and Deputy Leader and Cabinet Member for</p>	<p>for this sector. Councils, leisure operators and trusts are suffering severe financial issues across the country.</p> <p>The council has analysed a number of options, including keeping facilities closed until the new centre opens. Even this option would incur an additional in-year cost in excess of £800,000. This is the “base case” financially when considering how best to ensure leisure centre services are made available, and considering the additional costs of re-opening the centres. .</p> <p>The council’s aim is to ensure leisure centre provision is available to our community in a safe way, in accordance with Government guidance, in spite of the</p>	<p>and Leisure Park opens in 2021, with the Council taking on their operation making existing centre staff redundant or continues furlough until the new centre opens. This is the option with the lowest cost for the council in the current financial year but it would have a negative impact on community health and wellbeing and the operation of the new leisure centre as well as risk of reputational damage to the Council for the potential loss of jobs. Making the staff redundant would involve additional costs for the Council. This could have implications for the WSLP contract as they will need to undertake full staff recruitment which would have knock on financial implications for the new</p>

Winchester City Council Council – Decisions taken by the Cabinet on Wednesday, 22 July 2020

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		<p>Finance and Risk, the finalisation of interim contract terms with Sports and Leisure Management Ltd (Everyone Active) based on the draft Heads of Term in exempt appendix 2 and the specification set out in exempt appendix 4 of report CAB3249 and the Service Lead Legal to prepare and enter into the relevant contractual arrangements for an interim operator contract with Sports and Leisure Management Ltd (Everyone Active) as necessary until permanent arrangements are put in place, inclusive of associated agreements</p>	<p>financial challenges that this presents as well as supporting the long term success of the new Winchester Sport and Leisure Park and Meadowside Leisure Centre in Whiteley. We will aim to re-open our centres from 1 September 2020.</p>	<p>contract. The council's leisure facilities will remain closed until the new centre opens which will have an impact on the start up of the WSLP as customers will move to leisure centres in neighbouring districts. The new operator at WSLP would have a legitimate claim that the Council have fundamentally changed the basis on which they bid for the new WSLP contract and on which their financial offer was predicated. As such this would undoubtedly trigger a benchmarking exercise under the agreed contract with EA to recalculate the management fee around change of staff availability and loss of memberships. This would impact on the agreed business case and is therefore not considered a</p>

Winchester City Council Council – Decisions taken by the Cabinet on Wednesday, 22 July 2020

Agenda Item No	Topic	Decision	Reasons	Alternative Options
		<p>such as temporary lease and/ or any licence or transfer or novation arrangements.</p> <p>6. That a budget of up to £790,000 for the management and operational expenditure be approved to enable the opening River Park and Meadowside Leisure Centres in September 2020 until the procurement of a new operator in the Meadowside Leisure Centre and the transition of operation from River Park Leisure Centre to the new Winchester Sport and Leisure Park.</p> <p>7. That authority be delegated to the</p>		<p>sensible option.</p> <p>If the Council were to choose to go ahead with option D or E, resulting in the closure of the leisure centre, it is probable that the impact of losing staff and centre members could cause the operator of the new centre to renegotiate the basis of the management fee for the WSLP. There is much uncertainty in the whole leisure operator sector resulting from COVID-19 and its impact on customer numbers; so the risk of renegotiation of the WSLP operator contract remains even if the Council ensures RPLC reopens to customers under a contract with either the existing or a potential new operator.</p>

Winchester City Council Council – Decisions taken by the Cabinet on Wednesday, 22 July 2020

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		<p>Strategic Director Places and the Service Lead Legal authority to use the negotiated procedure without prior publication process under s32 (2) (c) of the Public Contract Regulations 2015 for the appointment a new operator until the procurement of an operator for Meadowside Leisure Centre and the transition of operation from River Park Leisure Centre to the new Winchester Sport and Leisure Park and to issue a VEAT notice notifying of a direct award of an interim contract on the basis of urgency.</p>		