

CABINET**Wednesday, 9 March 2022**

Attendance:

Councillor Thompson (Chairperson)	– Leader and Cabinet Member for Partnership Working
Councillor Cutler (Vice-Chair)	– Deputy Leader and Cabinet Member for Finance and Service Quality
Councillor Clear	– Cabinet Member for Communities and Wellbeing
Councillor Gordon-Smith	– Cabinet Member for Built Environment
Councillor Learney	– Cabinet Member for Housing and Asset Management
Councillor Tod	– Cabinet Member for Economic Recovery

Others in attendance who addressed the meeting:

Councillors Cook, Ferguson, Horrill and Kurn

Apologies for Absence:

Councillors Williams

[Full audio recording and video recording](#)

1. MEMBERSHIP OF CABINET BODIES ETC.

There were no changes to Cabinet bodies to be made.

2. DISCLOSURE OF INTERESTS

Councillor Tod declared a personal (but not prejudicial) interest in relation to agenda items which may relate to Hampshire County Council matters due to his role as a County Councillor.

3. MINUTES OF THE PREVIOUS MEETING HELD ON 17 FEBRUARY 2022.

Cabinet noted that the minutes were included with the supplementary agenda after the statutory deadline. The Leader agreed to accept the minutes onto the agenda as an urgent matter for consideration to enable them to be approved as this was the last Cabinet meeting of the municipal year.

RESOLVED:

That the minutes of the previous meeting held on 17 February 2022 be agreed as a correct record.

4. **PUBLIC PARTICIPATION**

Ian Tait spoke during public participation regarding report CAB3342 as summarised under the relevant minute below.

5. **LEADER AND CABINET MEMBERS' ANNOUNCEMENTS**

Cabinet members made a number of announcements as summarised briefly below.

Councillor Learney

The drop in consultation day on the proposals for the Bar End depot had been well attended. Cabinet would receive an update report once the questionnaire responses had been analysed.

Councillor Clear

A further £25,000 had been secured for enhancing actions to tackle fly tipping.

Councillor Gordon-Smith

The process of discussing further the allocation of housing numbers with parish councillors and ward councillors as part of the development of the Local Plan had begun with a recent meeting with Otterbourne Parish Council.

Councillor Tod

The new Vaultex park and ride car park (Barfield 2) would be opened on 11 March 2022.

The last payment of the winter support payment had been made to local businesses to help overcome the difficulties caused by the Covid pandemic bringing the total of payments made to approximately £1.35m.

6. **TO RECEIVE PETITIONS**

- (a) **a petition was submitted by Mr Sam Feltham regarding 'pause the River Park Leisure Centre proposal' which received 207 signatures. The details of the petition are set out on the agenda.**

Mr Feltham introduced his petition and in summary, raised the following matters:

- The importance of proper consultation with local residents, which he considered had not taken place with this proposal.
- Suggested an alternative use of the area as a "campus for the citizens of Winchester" which could include a lido.
- The Environment Agency's flood risk classification rated use of land for water based activities as lower risk than for educational purposes.
- Believed that a lido could be an economically viable alternative.
- Reiterated the request that the proposal be paused for six months to allow all options to be properly explored.

The Leader responded to the matters in the petition and in Mr Feltham's presentation and in summary, raised the following points:

- Cabinet would consider the contents of the petition in consideration of report CAB3342 which was the next item on the agenda.
- There would be future opportunities for public consultation on the proposal both in response to the proposed appropriation of the site and any future planning application by the university.
- There was no statutory duty on the council to consult before taking a decision to dispose of a leasehold.
- Emphasised the importance of taking into consideration the wider economic and social benefits of the proposal for Winchester.

RESOLVED:

That the petitioner be thanked for bringing the matter forward and that the contents of the petition be considered further as part of Cabinet's consideration of report CAB3342, elsewhere on the agenda.

- (b) a petition was submitted by Mr Steven Kan regarding 'save the skate park' which received 2265 signatures. The details of the petition are set out on the agenda and had previously been considered at meeting of full Council in 23 February 2022 where it was agreed that the petition be referred to Cabinet.**

Mr Kan introduced his petition and in summary, raised the following matters:

- In principle, welcomed the proposal in report CAB3342 to amend the heads of terms to ensure that the skate park was leased back to the council but had some concern about the lack of detail.
- Requested further details about whether this meant that the skate park would be retained in its current form and location.
- Suggested that lessons be learned about the need to consult with residents even where there was no statutory duty to do so and particularly with younger people, in the future.

The Cabinet Member for Housing and Asset Management responded to Mr Kan and in summary raised the following points:

- Thanked Mr Kan for his petition and the support for the skate park.
- Confirmed that although the skate park was never at risk, the proposed changes to the heads of terms demonstrated both the council and the university's commitment to its retention further.
- The leaseback would ensure that the council had full control of the skate park's future and maintenance over the full term of the lease.

RESOLVED:

That the petitioner be thanked for bringing the matter forward and the recommendation proposed in CAB3342 elsewhere on the agenda, together with the commitment and assurances of the Cabinet Member for Housing and Asset Management regarding the skate park's future and its maintenance over the full term of the lease, be noted.

7. **A LAND TRANSACTION IN RESPECT OF THE RIVER PARK LEISURE CENTRE (RPLC) SITE AND ASSOCIATED PARKING AREA, BOWLS CLUB AND SKATE PARK (LESS EXEMPT APPENDIX)**
(CAB3342)

The Leader welcomed to the meeting Professor Larry Lynch and Mr Jon Walsh from the University of Southampton and also Mr Matthew Hutchings QC who was advising the council.

Councillor Learney introduced the report and in summary, raised the following points:

- confirmed that its contents took account of the objections received in response to the advertisement for the disposal of open space.
- highlighted a correction to the report to clarify that parking at North Walls car park was chargeable.
- Proposals for the North Walls park area were agreed at the Winchester Town Forum on 10 November 2021 (report WTF303 refers) and the proposal in this report did not impact on the public aspirations for the park area.
- There was no statutory requirement on the council to consult on the disposal of a leasehold and nor has the council made a clear commitment to formal public consultation prior to any disposal of the Site
- A considerable amount of related consultation had been undertaken by the council over previous years (for example, in relation to the Vision for Winchester and the Local Plan) and the current proposal supported many of the outcomes of previous consultations.
- Future consultation would be undertaken by the university both in developing their master plan for the campus and as part of the planning application process.
- The public will not lose a large proportion of the recreation ground
- The proposal was that the site be used for tertiary education for 35 years which had no bearing on the accessibility of the site.

At the invitation of Councillor Learney, Mr Hutchings QC confirmed that contrary to statements made by the Friends of River Park group (FoRP) in their objections to the notice, the advertisements were legally correct (paragraph 4.5 of the report refers). In addition, even if the notices were defective, any defect would be cured by further advertisements prior to a decision to appropriate (paragraph 4.6 refers). Mr Hutchings QC also responded to an observation document submitted by FoRP and advised that FoRP were incorrect in their statement that the University of Southampton will have an absolute right to a lease when they obtain planning permission. The council has committed to appropriation as a condition and he referred members to paragraphs 4.14 and 4.16 of the report.

At the invitation of Councillor Learney, Professor Lynch confirmed that the university was a charity registered with the Charity Commission and as such is a public research university sealed by Royal Charter. The university is not a

commercial entity, although it operated some commercial activities to fund its charitable purposes.

Councillor Learney summarised that the objections had been carefully considered and included in an appendix of the report. Taking all objections into account Cabinet needed to consider if this is the right thing to do for the city and district. She summed up the opportunity to replace the leisure centre building with a high quality and accessible building. Taking all representations into account Councillor Learney recommended that Cabinet progress with this decision.

One representation was made during public participation as summarised briefly below.

Ian Tait

Generally supported the proposal as offering an excellent opportunity to improve the cultural and creative offering in Winchester and congratulated Southampton University on an excellent offer. Highlighted successful community arts events that had been held by the Winchester School of Art in previous years and reflected the position of the Colour Factory and Winchester School of Art. Commented that there is a shortage of exhibition and event space. Expressed concern that the opportunity offered by the university's proposals might be lost because of a lack of effective public consultation by the council. Considered that a short delay might be appropriate in order that the benefits of the opportunity could be properly communicated.

In response, the Leader welcomed Mr Tait's support but explained that it was not appropriate to delay the decision, emphasising the future extensive consultation that would be undertaken by the university.

At the invitation of the Leader, Councillors Ferguson, Horrill and Cook addressed the meeting as summarised briefly below.

Councillor Ferguson

Spoke as a ward councillor for St Bartholomew on behalf of all three ward councillors. They had met with interest groups and local residents, some of whom were supportive of the proposals. However, it was apparent that a number of significant concerns remained, including over the removal of the covenant and the perceived risk that large areas of the park would be lost. Would have welcomed more consultation with local residents and believed this would have resulted in greater consensus. Welcomed the proposed changes to the heads of terms regarding the skate park and requested that these be made public as soon as possible. If the report was agreed, ward councillors would press the university to undertake the consultation it promised and also to provide the wider community benefits.

Councillor Horrill

Believed that the cabinet had not learned lessons from previous proposals for the central Winchester regeneration area regarding the importance of

adequate and effective public consultation. Acknowledged that there was no statutory duty to consult but believed there was a moral duty. Was not opposed to the university's proposals regarding the area but considered that the process adopted by Cabinet was wrong. Drew attention to the comments and concerns raised by Scrutiny Committee. Requested that formal public consultation be undertaken before progressing the proposals any further.

Councillor Cook

Raised various questions regarding the impact of the covenant on the land, as she had previously raised at Scrutiny Committee, but remained concerned. Requested that the decision be delayed by six months to enable proper public consultation to explore possible alternatives for the site. Believed that otherwise the council risked the expense and potential delays caused by a legal challenge of the decision.

The Leader drew members' attention to the draft resolution from The Scrutiny Committee regarding this report which had been published on the meeting webpage prior to the Cabinet meeting. As there was insufficient time to amend the report before the Cabinet meeting the further clarification/information requested by Scrutiny Committee was provided by the Strategic Director by way of a verbal update to the meeting and set out in full below.

A) That the report provides further clarification of the sequencing of key milestones, particularly referring to pages 55 and 71 of the report pack

The sequencing was clarified as follows:

- (i) Feasibility – this would be commenced Spring/Summer 2022.
- (ii) Development of proposals – this will involve deeper community engagement.
- (iii) Formal planning – The University would apply for planning permission which is decided by the Council acting as Local Planning Authority.
- (iv) Appropriation – should planning permission be granted, the case for appropriation would be considered by Cabinet (on behalf of the Council as landowner). This would happen after the planning decision. This involves applying a comparative test considering whether there is a greater public need for development for the proposed new use than the current use.

In addition, there was discussion at Scrutiny Committee about the extent to which members of the public and stakeholders would be able to put forward proposals under which the Council could retain the current use of the site for public recreation, both as part of the planning process and leading up to an appropriation decision by Cabinet.

- (i) In relation to the planning process, Policy CP7 in the Local Plan states that there will be a presumption against the loss of any open space, sports or recreation facility (including built facilities), except where it can be demonstrated that:-

- alternative facilities will be provided and are at least as accessible to current and potential new users, and at least equivalent in terms of size, usefulness, attractiveness and quality; or
- the benefit of the development to the community outweighs the harm caused by the loss of the facility.

- (ii) Before the Council made the appropriation decision, there would be further advertisements in local newspapers inviting objections, as required by section 122(2A) of the Local Government Act 1972. Furthermore, officers have clarified that the advertisement will carry a plan showing all parts of the Site that were proposed to be appropriated to a new relevant use as part of the University's development (including the closed leisure centre), regardless of whether or not they are currently used as open space.
- (iii) As stated above, appropriation requires a decision on whether there is a greater public need for development for the proposed new use than the current use. It would be open to members of the public or stakeholders to argue that the current use for public recreation should continue.

B) That paragraph 4.5 of the report be amended to reflect that the car park is not a free car park for people visiting local shops and businesses

As stated by Councillor Learney above, an amendment to section 4.5 of the report was proposed to delete the word 'free' from line 8.

C) That the report be amended to provide a clearer, single summary of finances

The prospective Income can be summarised as:

Capital in respect of the site

Cost of demolition	£2M (included in capital programme)
Capital receipt for lease	In remit of Appendix C

Revenue costs in respect of the site

item	Years 0-Lease sign ¹ (funded from existing budgets)	Years Lease sign+
Car Park income	£85,000	£55,000
Maintenance, utilities and repair or RPLC building	(£80,000)	Nil
Skate Park maintenance	(£15,000)	(£15,000)
Business Rates	(£155,000*)	Nil
NNDR	(£16,000)	(£9,000)

¹ This is the ongoing costs regardless of this transaction – these will remain in place until we resolve the future of this site.

TOTAL	(£181,000) or (£26,000) after BR delisted	£31,000
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Annual revenue impact of capital receipt	Nil	Capital price/£M £40,000 pa	x
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*this cost would end on de-listing, budgeting for end of cost 22/23, however implementing a meanwhile use would reinstate this cost.

D) That discussions are held with the University of Southampton regarding their plans for proactive engagement with residents of the district

The University have confirmed that they have engaged an external organisation to work in their project team. As stated in paragraph 15.1 of the report, a joint steering group consisting of the University of Southampton and the Council would be established. The terms of reference for this group would include overseeing public consultation and engagement through the informal early stages as the University's proposal is developed and into more formal consultation.

E) That the committee wanted to ensure that the University's plans achieve net zero carbon.

Carbon neutrality is not a criterion of the offer being considered today, however the University have a published Sustainability Strategy. This strategy seeks for the University to achieve net zero emissions for their direct and indirect impacts by 2030. The Council can therefore expect any development proposals to contribute towards this target.

F) That the committee wished to draw to the attention of Cabinet that this was a significant decision to take whilst some elements were unknown

There was a range of matters discussed at The Scrutiny Committee. These responses given today cover them. The only one not specifically covered is that the site is subject to an existing restriction imposed by the conveyance to the Council's predecessor in 1902, which prohibits building housing on the Site. The Council has no intention of seeking to remove that restriction. The market value of the site will therefore be assessed subject to this existing restriction.

G) That Cabinet consider all of the committee's comments raised during discussion of the item

The Strategic Director stated that most of the Cabinet Members were at The Scrutiny Committee on 3 March 2022 and those not there had been briefed on 7 March. She understood that Cabinet will all take the comments from Scrutiny raised during discussion into consideration.

Cabinet members asked a number of detailed questions regarding appropriation and the status of any covenant on the site which were responded to by Mr Hutchings QC. In particular, it was noted that the protections would remain on the wider River Park area and appropriation, if agreed, would only relate to the minimum area of land required and, that the land was conveyed to the council's predecessor for the purpose of public recreation. The Indenture does not say the council's predecessor covenants that the land will only be used for that purpose and there is a distinction (as indicated in appendix A to the report).

The Strategic Directors also responded to Cabinet members' questions regarding the valuation and duty to obtain best consideration, the equality impact of the transaction, future policies regarding student housing in Winchester and a proposed new open space strategy.

At the invitation of the Leader, Councillor Horrill confirmed she did not wish to make any representations on the exempt appendix. Cabinet agreed there was no requirement to move into exempt session as they did not wish to ask any questions or have any debate on the exempt appendix.

Cabinet agreed the following for the reasons set out above and outlined in the report.

RESOLVED:

1. That having considered the objections received as a result of the public notice under s123(2A) of the Local Government Act 1972, approval is given to enter into an agreement to dispose of the land known as River Park Leisure Centre, Gordon Road, Winchester, as identified by the red line on the plan at Appendix A ("the Site") of CAB3342, to the University of Southampton on a 150 year lease.
2. That the Heads of Terms are agreed as set out in Appendix B of CAB3342, subject to an amendment in order to ensure that the skate park is leased back to the council. The Heads of Terms include a five year 'longstop date' during which period the University of Southampton will investigate and apply for planning consent, with the usual public notices, for their proposed development.
3. That authority be delegated to the Corporate Head of Asset Management to enter into an Agreement for Lease with the University of Southampton in keeping with the Heads of Terms and the above amendment in respect of the skate park, including authority to agree the purchase price with The University of Southampton on terms that satisfy S123(2) of the Local Government Act 1972.
4. That subject to further decisions by the council as to the granting of planning permission for the University of Southampton's proposed campus scheme and as to the appropriation of those parts of the Site required for the scheme, authority be delegated to the Corporate Head of Asset Management to enter into a lease of the Site with The

University of Southampton in accordance with the above-mentioned Agreement for Lease.

5. That authority be delegated to the Service Lead Legal the drafting of the Agreement for Lease and the lease, and any relevant ancillary agreements as are necessary to implement the recommendations above.

8. **KING GEORGE V (KGV) PAVILION FUNDING**
(CAB3341)

Councillor Learney introduced the report and welcomed the proposals, which were also supported by the Football Association. A steering group comprising of relevant sports and community groups, together with councillors and officers, would be established to advise on future management of the pavilion.

At the invitation of the Leader, Councillor Cook addressed the meeting as summarised briefly below.

Highlighted the additional costs of the project and queried whether local community were in full support. Queried the status of the grant application to the Football Foundation. Also requested an update on the “Allegra’s ambition” proposals and the proposals for a new pavilion at North Walls.

Councillor Learney and the Corporate Property Manager responded to the points raised, including clarifying that the additional project costs were due to improvements to the building design as well as rising construction and building material costs.

Cabinet agreed the following for the reasons set out above and outlined in the report.

RESOLVED:

1. That capital expenditure of up to £2,190,000 (bringing the total expenditure approved to £2.3m) be approved for the construction of the new KGV Pavilion, subject to successful funding applications set out in Table 2 Project funding.

2. That the Corporate Head of Economy & Community submit an application for grant funding to the District Wide Community Infrastructure Levy for the sum of £450,000.

3. That £450,000 of District Wide CIL funding be agreed, subject to the due diligence assessment and support of the application in April by the council’s CIL Informal Panel.

4. That subject to the securing of all required funding, that the Corporate Head of Asset Management be authorised to invite and evaluate tenders and to award a design and build contract to the preferred bidder in accordance with the Public Contract Regulations 2015 and

Councils Contract Procedure Rules for the construction of the KGV Pavilion.

9. **WCC LANDSCAPE CHARACTER ASSESSMENT SUPPLEMENTARY PLANNING DOCUMENT**
(CAB3337)

Councillor Gordon-Smith introduced the report and stated that appendix A of the report listed the responses to the consultation.

Cabinet agreed the following for the reasons outlined in the report.

RESOLVED:

1. That the public consultation responses as set out in Appendix A of report CAB3337 be noted.
2. That the proposed Landscape Character Assessment Supplementary Planning Document be adopted, as set out within Appendix B of CAB3337, subject to necessary minor amendments.
3. That authority be delegated to Strategic Director Place, in consultation with Cabinet Member Built Environment, to make final minor amendments to the Supplementary Planning Document prior to adoption.

10. **PARKING CHARGES REVIEW**
(CAB3330)

Councillor Tod introduced the report and summarised the key proposals contained within. This included removing the free half hour parking in central Winchester in order to improve air quality and introducing a free hour ticket in “park and walk” car parks.

At the invitation of the Leader, Councillor Kurn addressed the meeting as summarised briefly below.

Recognised the importance of reducing carbon emissions but queried whether the necessary technology and infrastructure was in place and whether the measures proposed were therefore too premature and unfair to car drivers. Queried the appropriateness of the timing of the decision to remove the free half hour parking when businesses were still recovering from the impact of the Covid pandemic. Highlighted the impact on residents of charging for Sunday parking.

Cabinet members responded to the comments made, including emphasising the urgency of measures to improve the air quality in the central Winchester area.

Councillor Tod referred to a concern raised with him by Monica Gill (TACT) who had been unable to remain to raise her point at the meeting. The concern related to residential parking permits on Sundays and was therefore outside the scope of the report, but would be examined separately.

Councillor Tod and the Head of Programme drew members' attention to a correction in the first recommendation of the report to refer to paragraph 12.4 (rather than 11.4 as stated). In addition, it was proposed to retain the all-day parking rate for the river park leisure centre car park Monday to Fridays to discourage all day commuter parking. Cabinet agreed to amend the wording of the first resolution to reflect these changes (amended resolution as set out below).

Cabinet agreed the following for the reasons set out above and outlined in the report.

RESOLVED:

1. That changes to the parking tariff in Winchester Town (in addition to the previously agreed changes to City Centre Parking outlined in the 2022/23 Fees and Charges Paper (CAB3326)) as set out in paragraph 12.4 and appendix 1 of report CAB3330, with the exception of the river park leisure centre (RPLC) car park which should be £15.50 for over 4 hours Monday to Friday, be advertised and implemented in October 2022.

2. That a consultation is undertaken in the summer (for a 6 week period and will report back to Cabinet in the autumn) for a scheme to charge vehicles based on vehicle emissions.

3. That the Head of Programme and Head of Legal Services be authorised to enter into a new parking management agreement with New Alresford Town Council for Arlebury Park car park, New Alresford.

**11. PARKING AND ACCESS PLAN IMPROVEMENT PROGRAMME
(CAB3329)**

Councillor Tod introduced the report and summarised the key proposals contained within.

At the invitation of the Leader, Councillor Kurn addressed the meeting as summarised briefly below.

Welcomed the proposed enhancements to CCTV, Wi-Fi and other improved facilities. With regard to The Dean car park at Alresford noted that following the related question at Council on 23 February 2022, the resident remained unhappy with the response provided.

Cabinet members responded to comments made, including clarifying the situation regarding The Dean car park.

Cabinet noted a correction to recommendation 4 of the report to refer to paragraph 13.2 (and not paragraph 14.2 as stated).

Cabinet agreed the following for the reasons set out above and outlined in the report.

RESOLVED:

1. That an additional budget of £70,000 (total £100,000) be approved for the upgrade of pay machines in order to roll out contactless payments and to support the potential introduction of a differential charging scheme based on vehicle emissions across the central Air Quality Management Area.
2. That expenditure of £590,000 for the car park major works programme 2022/23 be approved, as outlined in appendix A of CAB3329.
3. That it be noted that the indicative programme for 2023/24 is yet to be fully defined subject to condition surveys and further evaluation work being completed.
4. That a change in relation to The Dean Car Park at Alresford from 47 to 42 spaces and expenditure of £1,005,000 be approved (as outlined in paragraph 13.2 of the report).
5. That authority be delegated to the Head of Programme in consultation with the Corporate Head of Asset Management and Cabinet Member for Economic Recovery, to procure and to make minor adjustments to the programme in order to meet maintenance and operational needs of the car park service throughout the year, as required.

12. **RISK MANAGEMENT POLICY 2022/23**
(CAB3338)

Councillor Cutler introduced the report and stated that its contents had been broadly supported by Audit and Governance Committee on 7 March 2022.

Cabinet agreed the following for the reasons set out above and outlined in the report.

RESOLVED:

That the Risk Management Policy for 2022/23, its Risk Appetite Statement for 2022/23 and the appended Corporate Risk Register be approved.

13. **FUTURE ITEMS FOR CONSIDERATION**

RESOLVED:

That the list of future items, as set out in the Forward Plan for April 2022, be noted.

14. **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>
15	A land transaction in respect of RPLC (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)

15. **A LAND TRANSACTION IN RESPECT OF THE RIVER PARK LEISURE CENTRE (RPLC) SITE AND ASSOCIATED PARKING AREA, BOWLS CLUB AND SKATE PARK (EXEMPT APPENDIX)**

RESOLVED:

That the contents of the exempt appendix be noted.

The meeting commenced at 9.30am and was then immediately adjourned until 10.20am. A further adjournment took place at midday until 12.15pm and the meeting concluded at 1.15 pm

Chairperson