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| Meeting | Cabinet |
| Date and Time | Wednesday, 9th March, 2022 at 9.30 am. |
| Venue | Walton Suite, Winchester Guildhall |

Note: *This meeting is being held in person at the location specified above. In line with relevant legislation and public health guidance the following arrangements apply. Members of the public should note that a live audio feed of the meeting will be available from the councils website (www.winchester.gov.uk) and the video recording will be publicly available on the council's YouTube channel shortly after the meeting.*

For members of the public and "visiting councillors" who are unable to utilise this facility a limited number of seats will be made available at the above named location however attendance must be notified to the council at least 3 clear working days before the meeting. Please note that priority will be given to those wishing to attend and address the meeting over those wishing to attend and observe.

AGENDA

PROCEDURAL ITEMS

- 1. Apologies**
To record the names of apologies given.
- 2. Membership of Cabinet bodies etc.**
To give consideration to the approval of alternative arrangements for appointments to bodies set up by Cabinet or external bodies, or the making or terminating of such appointments.
- 3. Disclosure of Interests**
To receive any disclosure of interests from Members and Officers in matters to be discussed.
Note: Councillors are reminded of their obligations to declare disclosable pecuniary interests, personal and/or prejudicial interests in accordance with legislation and the Council's Code of Conduct.



4. **To note any request from Councillors to make representations on an agenda item.**

Note: Councillors wishing to speak about a particular agenda item are required to register with Democratic Services three clear working days before the meeting (contact: democracy@winchester.gov.uk or 01962 848 264). Councillors will normally be invited by the Chairperson to speak during the appropriate item (after the Cabinet Member's introduction and questions from other Cabinet Members).

BUSINESS ITEMS

5. **Minutes of the previous meeting held on 25 January 2022.** (Pages 9 - 14)

6. **Public Participation**

– to note the names of members of the public wishing to speak on general matters affecting the District or on agenda items (in the case of the latter, representations will normally be received at the time of the agenda item, after the Cabinet Member's introduction and any questions from Cabinet Members).

NB members of the public are required to register with Democratic Services three clear working days before the meeting (contact: democracy@winchester.gov.uk or 01962 848 264).

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| Members of the public and visiting councillors may speak at Cabinet, provided they have registered to speak three working days in advance. Please contact Democratic Services by 5pm on Thursday 3 March 2022 via democracy@winchester.gov.uk or (01962) 848 264 to register to speak and for further details. |
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7. **Leader and Cabinet Members' Announcements**

8. **To receive petitions -**

A) Pause the River Park Leisure Centre proposal from the University of Southampton and conduct a six-month public consultation for other ideas.

We the undersigned petition the council to pause the River Park Leisure Centre proposal from the University of Southampton and conduct a six-month public consultation for other ideas.

Winchester City Council have decided to give the University of Southampton five-years to conduct a public consultation to explore what they should do with the River Park Leisure Centre site but never gave local residents the opportunity to formally submit our ideas.

With this in mind, we urge the city council to pause the proposal from the university and first conduct a well advertised six-month public consultation to gather other ideas from the community. After that, a short list of proposals (including the University of Southampton one) could be created based on positive social and economic impact. Local residents could then vote on which proposal would be best for Winchester.

This democratic decision process would ensure strong local support for whichever proposal was chosen as well as creating long-lasting trust between the community and city council.

On reaching 10 signatures Ordinary Petition

This ePetition ran from 19/11/2021 to 11/02/2022 and has now finished.

207 people signed this ePetition.

B) In accordance with Council Procedure Rule 16, a petition was submitted by 'Save Our Skatepark in Winchester River Park' with 2,265 signatures to Council on 23 February 2022. At that Council meeting, it was agreed that the petition be referred to the Cabinet meeting where the decision in respect of the land disposal was being decided. The decision being made is an executive decision.

We object to the proposed disposal of Open Space Land known as the River Park Skate Park, Gordon Road as given by the 12 Jan 2022, Section 123(2a) LGA 1972 notice.

The Skate Park provision should remain under the full control of Winchester City Council to provide for the youth residents of the City and fulfil its obligations under the published North Walls Park improvement plans.

Selling a 150yr lease for the land to the University of Southampton creates a significant risk for WCC that it will be unable to provide or improve the facilities that it has consulted and planned on with residents. It also creates the risk that the UoS would use potential improvement funds as a negotiation tool for other activities it might wish to carry out on the wider site.

Why is this important?

The council should not be handing over a recently improved (£270k in 2014/15) built facility to the University of Southampton for potential redevelopment.

Whilst the council and university have said they intend to keep the Skate Park and potentially improve it, these statements are not believed to be legally binding in any way.

On the other hand, the agreements will make allowance for:

"Reasonable Relocation" - Winchester Cabinet Report CAB3324 <https://bit.ly/3rtDnqp>

"Equivalent Facilities" - Disposal of Open Space Land Notice, 12 Jan 22 <https://bit.ly/3qj93sW>

'Reasonable' and 'Equivalent' are both subjective terms and leaving them to negotiation at the point they would need to be used is terrible governance.

Winchester has little provision for its young people. The correct public body to own and control a facility for Winchester's residents is Winchester City Council.

The council could divide the land and keep hold of the skate park, particularly if the University has no intention to build on it.

Why would the UoS want a piece of land they can't build on or generate income from anyway?

If, ultimately, the cultural centre plan does need to build on the skate park or move it for noise/disruption reasons it could negotiate with WCC for the land with a clear replacement facility in mind.

As it stands WCC would be held over a £100M barrel to either agree to whatever the University planned for it or lose the lot.

9. 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) (Pages 15 - 116)
- Key Decision** (CAB3342)
10. King George V (KGV) Pavilion Funding (Pages 117 - 140)
- Key Decision** (CAB3341)
11. WCC Landscape Character Assessment Supplementary Planning Document (Pages 141 - 166)
- Key Decision** (CAB3337)
12. Parking charges review (Pages 167 - 192)
- Key Decision** (CAB3330)
13. Parking and access plan improvement programme (Pages 193 - 208)
- Key Decision** (CAB3329)
14. Risk Management Policy 2022/23 (Pages 209 - 248)
- Key Decision** (CAB3338)
15. To note the future items for consideration by Cabinet as shown on the April 2022 Forward Plan. (Pages 249 - 252)
16. EXEMPT BUSINESS:
To consider whether in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
- (i) To pass a resolution 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.
17. A land transaction in respect of the River Park Leisure Centre (RPLC) site and associated parking area, bowls club and skate park (exempt appendix) (Pages 253 - 254)
- Key Decision** (CAB3342 Appendix C)

Lisa Kirkman
Strategic Director and Monitoring Officer

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1 March 2022

Agenda Contact: Nancy Graham, Senior Democratic Services Officer
Tel: 01962 848 235, Email: ngraham@winchester.gov.uk

**With the exception of exempt items, Agenda, reports and previous minutes are available on the Council's Website www.winchester.gov.uk*

CABINET – Membership 2021/22

Chairperson: Councillor Thompson (Leader and Cabinet Member for Partnership Working)

Councillor Cutler (Deputy Leader and Cabinet Member for Finance and Service Quality)

| | | |
|-------------------|---|---|
| Councillor | - | Cabinet Member |
| Clear | - | Cabinet Member for Communities and Wellbeing |
| Gordon-Smith | - | Cabinet Member for Built Environment |
| Learney | - | Cabinet Member for Housing and Asset Management |
| Tod | - | Cabinet Member for Economic Recovery |
| Williams | - | Cabinet Member for Climate Emergency |

Quorum = 3 Members

Corporate Priorities:

As Cabinet is responsible for most operational decisions of the Council, its work embraces virtually all elements of the Council Strategy.

Public Participation at meetings

Representations will be limited to a maximum of 3 minutes, subject to a maximum 15 minutes set aside for all questions and answers.

To reserve your place to speak, you are asked to **register with Democratic Services three clear working days prior to the meeting** – please see public participation agenda item below for further details. People will be invited to speak in the order that they have registered, subject to the maximum time period allowed for speaking not being exceeded. Public Participation is at the Chairperson's discretion.

Filming and Broadcast Notification

This meeting will be recorded and broadcast live on the Council's website. The meeting may also be recorded and broadcast by the press and members of the public – please see the Access to Information Procedure Rules within the Council's Constitution for further information, which is available to view on the [Council's website](#).

Disabled Access

Disabled access is normally available, but please phone Democratic Services on 01962 848 264 or email democracy@winchester.gov.uk to ensure that the necessary arrangements are in place.

Terms Of Reference

Included within the Council's Constitution (Part 3, Section 2) which is available [here](#)

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CABINET

Tuesday, 25 January 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 |
| Councillor Williams | – Cabinet Member for Climate Emergency |

Others in attendance who addressed the meeting:

Councillors Horrill and Pearson

[Full audio recording and video recording](#)

1. MEMBERSHIP OF CABINET BODIES ETC.

Cabinet noted that nominations had been received for the four vacancies set out on the agenda as follows:

- a) The Carroll Centre Board of Trustees
Consideration of nomination(s) to replace former councillor Eleanor Bell (until May 2022) – Councillors Becker and Cook
- b) Hampshire Cultural Trust
Consideration of nomination(s) to replace Councillor Evans as the observer (until May 2022) – Councillors Cunningham and Laming
- c) WinACC
Consideration of the appointment of a Cabinet Member as company director and charity trustee (until May 2022) – Councillor Williams
- d) Project Integra Management Board
Consideration of the appointment of a Cabinet Member as deputy on the Board (until May 2022) – Councillor Cutler

Cabinet agreed the following.

RESOLVED:

That the following appointments to external organisations be made:

- a) The Carroll Centre Board of Trustees – Councillor Becker
(until May 2022)
- b) Hampshire Cultural Trust – Councillor Laming (observer)
(until May 2022)
- c) WinACC – Councillor Williams
Company director and charity trustee (until May 2022)
- d) Project Integra Management Board – Councillor Cutler
deputy on the Board (until May 2022)

2. **DISCLOSURE OF INTERESTS**

Councillor Tod declared a personal (but not prejudicial) interest in respect of report CAB3328 due to his role as a County Councillor. He also declared a personal (but not prejudicial) interest in report CAB3331 due to his role as director of a charity which was involved in the area of work.

3. **PUBLIC PARTICIPATION**

Ian Tait spoke during general public participation as summarised briefly below. Highlighted the requirement for an additional footbridge next to the existing city bridge over the River Itchen (located adjacent to the City Mill) because of the current difficulties faced by pedestrians using the existing narrow footway. He believed that a footbridge option had previously been designed and should be re-examined. It was an important, well-used route, including to and from both the new leisure centre and the Chesil Street extra care scheme.

Councillor Tod responded to the comments made emphasising that the various options for the bridge and this route were currently being considered jointly by the city and county councils as part of the Winchester Movement Strategy.

4. **MINUTES OF THE PREVIOUS MEETINGS HELD ON 23 NOVEMBER, 8 DECEMBER AND 22 DECEMBER 2021**

RESOLVED:

That the minutes of the previous meetings held on 23 November 2021, 8 December 2021 and 22 December be agreed as a correct record.

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

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

Councillor Clear

Announced the successful fly-tipping prosecution in the Durley area and the overall reduction in the number of fly-tipping incidents since September 2021.

Provided a brief update on a number of forthcoming activities being organised across the district by the Health and Sports team.

Councillor Cutler

Announced the successful prosecution of the owner of the Denmead mobile home park following reports of harassment and failure to maintain the site in a suitable condition for residents.

Councillor Learney

Announced that the new housing scheme at The Valley, Stanmore had received a successful compliance audit from Homes England and congratulated the New Homes Team.

6. **APPROVING THE JOINT MUNICIPAL WASTE MANAGEMENT STRATEGY (CAB3328)**

Councillor Tod introduced the report which sought approval of the Project Integra Joint Municipal Waste Management Strategy which had been developed in response to the Environment Act 2021. The issue was considered at the Health and Environment Policy Committee on 19 January 2022 where members were broadly in support of the proposals.

Councillor Tod summarised the points raised for consideration by Cabinet as follows:

- suggestion that future reports be more explicit about the carbon impact of proposal;
- the council should work with its partners to develop actions in response to the 2021 Act as soon as possible;
- the council should work with relevant voluntary organisations across the district to help educate people to recycle more effectively.

At the invitation of the Leader, Councillor Pearson addressed Cabinet as summarised briefly below.

Agreed that there had been general support for the proposals from the Health and Environment Policy Committee but queried why the Project Integra Strategy had not been submitted for consideration? Emphasised that the Environment Act 2021 part 3 contained mandatory requirements for local authorities and it would be of vital importance to educate householders as they would be responsible for the primary sorting of recyclable materials. Highlighted the current shortage of facilities for collecting food waste and the need to ensure the next environmental services contract was able to respond to the new Act's requirements.

The Service Lead – Environmental Services and Councillor Tod responded to comments made including confirming discussions had begun with the Council's current contractors in preparation. It was also highlighted that, although the Strategy was not formally submitted to the Health and Environment Committee, the Cabinet report had been published in December and the Strategy was available for all members' to refer to if they wished.

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

RESOLVED:

1. That the draft Project Integra Joint Municipal Waste Management Strategy be approved.
2. That authority be delegated to the Corporate Head of Programme, in consultation with the Cabinet Member for Economic Recovery to make minor amendments to the Joint Municipal Waste Management Strategy prior to final publication by the Project Integra Partnership.

**7. PUBLIC SECTOR EQUALITY DUTY
(CAB3331)**

Councillor Cutler introduced the report and drew attention to the comments from Audit and Governance Committee as summarised in paragraph 6.2 of the report. Following the suggestions regarding the importance of allocating designated members and officers to be responsible for meeting the Duty, the following appointments were proposed:

- Lead Cabinet member – Councillor Clear
- Member champion – Councillor Becker
- Project sponsor – Strategic Director and Monitoring Officer
- Project lead – Corporate Head of Strategic Support

Councillor Cutler explained that following the training being delivered to all members and officers, the establishment of a Members' Equality and Diversity Inclusion Forum would be examined further with terms of reference brought back to a future Cabinet.

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

RESOLVED:

1. That the Public Sector Equality Duty Policy, the Equality Impact Assessment template and Equality Duty Action Plan be approved.

2. That the appointment of a Member Champion and lead Cabinet Member to provide leadership for the city council to meet its Public Sector Equality Duty be agreed as follows:

- a) Member Champion – Councillor Becker
- b) Lead Cabinet Member – Councillor Clear

3. That a review will occur prior to December 2025 of the Public Sector Equality Duty Policy, the Equality Impact Assessment template and Equality Duty Action Plan which will include any updates that are required to the policy documents and next steps.

8. **DECISION TO WITHDRAW DECISION MADE ON 23 NOVEMBER 2021 IN REPORT CAB3324**
(CAB3336)

Councillor Learney introduced the report and emphasised that the deadline for objections to the proposed disposal of the open space land was 4pm on Friday 4 February 2022 and that any objections would be considered by a future Cabinet meeting.

At the invitation of the Leader, Councillor Horrill addressed Cabinet as summarised briefly below.

Expressed concern that the previous Cabinet decision was incorrect. Highlighted that there had been an attempted call-in by opposition Members of the previous decision which had been refused by the Monitoring Officer. Believed that there may have been a deliberate attempt to avoid consultation with local residents on future proposals for the site and it was unclear if there were alternative options available. Requested that an open and transparent approach be adopted which enabled input from all councillors and residents.

Councillor Learney responded to the comments made, including emphasising the history of the proposal with previous Cabinet report CAB3190 (considered on 23 October 2019) setting out the challenges and limited options available for development of the site. This followed on from proposals agreed at Cabinet on 31 October 2018 (report CAB3093 referred).

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

RESOLVED:

- 1. That the Decision made on 23 November 2021 pursuant to report CAB3324 be withdrawn.
- 2. That the relevant advertisements be approved pursuant to s.123(2A) Local Government Act 1972 placed in the Mid Hampshire Observer from 5 January 2022 for two consecutive weeks and the Hampshire Chronicle from 6 January 2022 for two consecutive weeks.

3. That it be noted that the deadline for objections to be received by the Council is 4pm on Friday 4 February 2022 and that any objections will be considered by Cabinet alongside the proposed disposal at a future date, to be confirmed.

9. **FUTURE ITEMS FOR CONSIDERATION**

RESOLVED:

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

The meeting commenced at 9.30 am and concluded at 10.40 am

Chairperson

REPORT TITLE: A LAND TRANSACTION IN RESPECT OF THE RIVER PARK LEISURE CENTRE SITE AND ASSOCIATED PARKING AREA, BOWLS CLUB AND SKATE PARK

9 MARCH 2022

REPORT OF CABINET MEMBER: Councillor Kelsie Learney Cabinet Member for Housing and Asset Management

Contact Officer: Dawn Adey Tel No: 07879 110 109 Email dadey@winchester.gov.uk

WARD(S): ST BARTHOLOMEW

PURPOSE

The University of Southampton has approached the council to express an interest in acquiring the former and now decommissioned River Park Leisure Centre, bowls club and skate park hereinafter collectively referred to as "the Site".

This report summarises the objections received in response to the statutory advertisement required for the disposal of open space and then proposes entering into an agreement for the disposal of the Site to the University of Southampton ("the Agreement for Lease"). The objections have been considered and an agreement to amend the Heads of Terms has been secured in order to ensure that the skatepark is leased back to the council so that the continuation of the skate park is secured under the council's management.

If the report is agreed, there is a five year period during which the University must use reasonable endeavours to bring forward their proposal for a transformational development to the existing Winchester School of Art campus, working with local residents and partners to secure the best outcome for Winchester.

RECOMMENDATIONS:

It is recommended that Cabinet:

1. 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”), to the University of Southampton on a 150 year lease.

2. Agree the Heads of Terms as set out in Appendix B, subject to an amendment in order to ensure that the skatepark 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. Delegate authority 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. Subject to further decisions by the council as to the grant 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, delegate authority 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. Delegate 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.

IMPLICATIONS:

1 COUNCIL PLAN OUTCOME

1.1 Tackling the Climate Emergency and Creating a Greener District

The council has declared a Climate Emergency and is committed to sustainable development. Our Carbon Neutrality Action Plan ensures all council activity is undertaken with a view to supporting our commitment to achieving net zero carbon. We are actively working with partners to ensure that development in the district is undertaken sustainably.

The University of Southampton shares this commitment to sustainability, and their ambitions for development of their sites are set out in The University of

Southampton Sustainability Strategy: 2020-2025. Their strategy aligns with our own ambitions.

The re-use of this previously developed site which provides economic, social and community benefits supports this aim.

Homes for All

- 1.2 This site would not be developed to provide housing which includes student housing and any other form of residential building. The Heads of Terms preclude the University using the land for housing, and the Heads of Terms form the basis of the Agreement for Lease and Lease. Housing for students using the facilities would be provided as part of the university's full development programme and any development of housing would be subject to planning approval. The council would work with the university to assist them to identify suitable sites for the provision of new purpose-built student accommodation.

1.3 Vibrant Local Economy

The UK creative industry sector is valued at £11.7bn GVA and in Winchester is growing almost 5 times faster than other areas of the economy in terms of Gross Value Added. Winchester is already well known for its strength in this area and in the architectural sector in particular. The council's Green Economic Development Strategy sets out the opportunity to build a cluster of national significance in creativity, design and related heritage and nature/land based professional services along with the opportunity to deepen a creative network of scale. This development would therefore support the economic development of the city in line with the council's already stated ambitions.

The University of Southampton is a globally top ranked business incubator. Their 'Future Worlds' initiative works with aspiring founders to launch products and services and then to scale their businesses introducing them to funders, useful contacts and advisors.

The University of Southampton is an exempt charity under the Charities Act 2011. It is a chartered corporation, established by Royal Charter in 1952.

The university has founded 15 new 'spinout' companies since 2015, with £117m invested in these concerns in 2020/21 (up from £65 million in in 2019/20). These companies cover a wide range of sectors producing a range of materials and developing innovative processes (including creating non-clay gel for bone, cartilage and skin regeneration, to gamma radiation detection and brewing carbon neutral beer).

The University of Southampton shares their existing cultural expertise with other leading academic bodies to create new products, services and companies that are nurtured through the organisation's renowned business incubators.

The university is committed to providing a high-quality student experience which would deliver direct community advantage through an 'open campus' ethic. This new, innovative approach to Campus design could bring a vibrancy to the area with the provision of libraries, eat/drink venues, a flexible performance and events infrastructure, a considerate landscape and greenspace stewardship and a greatly enhanced offer to young people.

Once the development is defined, it would bring construction and professional jobs to the area. The value of these jobs can only be quantified once the masterplan is known.

In short, the university has stated that it looks to 'bring new ideas, opportunities and resources to Winchester that will complement existing efforts and build a creative cluster that will make a substantial contribution to the vibrant Winchester economy'.

1.4 Living Well

The university is already an active partner in the city, offering creative opportunities to a range of residents as part of their commitment as a Civic University. The university is seeking to deepen and widen the opportunities for local people to experience international standard creative opportunities.

At all times free public access to North Walls Recreation Ground and the Skate Park would be maintained.

There is no impact on the surrounding outdoor sports facilities on this site which would remain in place and managed by the council

1.5 Your Services, Your Voice

The River Park site is of special importance to local people and a Petition was presented at Full Council asking that the council consider the arrangements for the Skate Park.

The University have met with ward members to closely understand their views and those of the residents they represent regarding the proposal and the council and university have met with the skate park community.

The council and university have an established partnership and this proposal enhances the opportunities for people local to Winchester and district to experience world class creative opportunities.

2 OTHER STRATEGIC IMPLICATIONS

2.1 Vision for Winchester 2030 sets out our ambitions around promoting culture and supporting creative endeavour, supporting our post-pandemic recovery,

the environmental sustainability of our economy and the long-term employability of young people.

- 2.2 The council received feedback from local people when consulting on the development of the Strategic Planning Document for the neighbouring Central Winchester Regeneration (CWR) site. The responses showed a desire locally for a greater accent on culture and an improved offering for younger people. While the CWR programme will see culture take a more prominent role in the centre of the city, the university campus potentially could enhance this being so close in proximity, whilst bringing an influx of young people who would support local shops and business and young talent to support the vibrancy of the city as a whole.
- 2.3 The council's Green Economic Development Strategy looks to support environmentally sustainable enterprise and recognises that young people are looking for opportunities to explore careers in the green economy and creative and innovative technology sectors.

3 FINANCIAL IMPLICATIONS

- 3.1 The land disposal will generate a capital receipt based on an independent assessment of "the best consideration reasonably obtainable". Under the Heads of Terms, the purchase price is to be agreed prior to executing the Agreement for Lease and paid upon the grant of the lease. Negotiation with the university will continue to arrive at a final agreed position regarding the purchase price. This decision is to be delegated to the Head of Corporate Asset Management, to be taken with the benefit of independent valuation advice.
- 3.2 The potential for a capital receipt was identified in previous reports concerning this site. These are:
- a) CAB3093 (Future use of site dated 31 October 2018) Risk section identified an opportunity as 'An exciting use for the site might come forward generating a capital receipt or income stream' and 'A creative solution could provide a positive financial position for council tax payers, as well as enhance the built environment, and meet community aspirations'
 - b) CAB3190 (Future use of site dated 23 October 2019) risk section identified 'An exciting use for the site might come forward generating a capital receipt or income stream'
 - c) CAB3242 (RPLC Decommissioning Report dated 24 June 2020) Section 2.8 identified 'The challenge of the COVID-19 pandemic will present budgetary pressures for the council. This may make straightforward sale of the RPLC site an attractive option. This would provide a significant capital receipt and limit expenditure of the council directly driving forward a development.'

The approach by the University of Southampton would fit as an exciting proposal as anticipated in these previous reports.

- 3.3 The financial terms for this disposal are confidential and are detailed in Appendix C which is exempt from publication. The valuation process has involved both parties appointing their own external Surveyors to prepare a valuation report. These valuation reports form the basis of ongoing negotiations between the parties in order to ensure that the council secures the best consideration that is reasonably obtainable
- 3.4 The council can use capital receipts to fund capital expenditure either for future projects or to reduce the borrowing requirement for previous unfinanced capital projects. The capacity for the council to resource future investment in its capital programme is limited, particularly for projects that would not generate income to support prudential borrowing. Capital receipts will therefore play a crucial role in funding the future capital programme, such as the “North Walls Park Plan” and other currently unfunded schemes to improve community facilities. Every additional £1m of capital receipt equates to a positive annual revenue impact of around £40,000 per annum (in the form of reduced borrowing costs).
- 3.5 The council would retain part of the car park (comprising 77 spaces). It is expected that displaced car park users will park elsewhere in the city centre and at Park & Ride facilities which may result in a small amount of lost income overall. The estimated net income for the retained spaces is £55,000 per annum. Reducing car movement in the city centre is in line with the aims of Winchester Movement Strategy.
- 3.6 The closure of the leisure centre has meant that all running costs associated with the buildings have become the council’s responsibility. Prior to sale, the council will therefore have ongoing maintenance, utilities and possibly repairing obligations estimated to be circa £80,000 per annum. Under the Agreement for Lease, the council would also be liable for demolition and remediation costs estimated at £2 million (current day prices).
- 3.7 The council also has a current business rates liability of circa £155,000 per annum for the leisure centre; although work is in progress to de-list the building. If the Site is not delisted by the time the lease is granted any ongoing liability will cease in any event.
- 3.8 Existing and ongoing maintenance costs in relation to the Skate Park are estimated at £15,000 per year. As part of the “leaseback” proposal, this liability will remain with the council for the period of the lease. These costs are already provided for in the current budget provision.

4 LEGAL AND PROCUREMENT IMPLICATIONS

Open space

- 4.1 The council has the power to agree to dispose of the Site under sections 111 and 123 of the Local Government Act 1972. Case law establishes that entering into the Agreement for Lease would not amount to a “disposal”, but that granting the lease would amount to a “disposal” for these purposes.
- 4.2 Under section 123(2A) of the 1972 Act a council may not dispose of open space unless before doing so they cause notice to be published of the intention to do so, specifying the land in question, and advertised for two consecutive weeks in a local newspaper. The council must then consider any objections to the proposed disposal.
- 4.3 Section 123(2A) defines open space by reference to the definition given in S336(1), Town and Country Planning Act 1990, as follows: “any land laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground”.
- 4.4 Section 13 of this report provides further detail of the process carried out to meet this obligation.
- 4.5 Careful consideration was given to the areas of the Site meeting the definition of open space for the purposes of S123(2A) Local Government Act 1972 having regard to case law including *Whitstable Society v Canterbury City Council* [2017] EWHC 254 (Admin). Officers were satisfied that the closed leisure centre itself and the leisure centre car park do not qualify as open space. This is because the leisure centre has been closed and has not been used for public recreation since late 2020, and since closure the principal use of the leisure centre car park has been as a free car park for people visiting local shops and businesses and it is not an area used for recreational purposes.
- 4.6 It is noted that the Friends of the River Park submitted that the plans attached to the notices were erroneous in omitting the above areas. This is considered to be incorrect. But, even if this point was correct, it would have no real effect on the decision-making process. Respondents, including the Friends of the River Park, appear to have had no difficulty in objecting to a change of use of the whole Site, including the leisure centre. Further, the current decision relates to entering into an Agreement for Lease with the university to allow them to bring forward development proposals. Prior to the grant of the lease there will be substantial further opportunities for the public and stakeholders to express their views in relation to the future use of the whole Site insofar as it is affected by the proposed campus scheme, both in response to the university’s application for planning permission and in response to a proposed appropriation of those parts of the Site required for the proposed campus scheme.
- 4.7 The relevant advertisement pursuant to s.123(2A) of the Local Government Act 1972, was placed in the Hampshire Chronicle from 5 January, lasting for two weeks and the Mid Hampshire Observer from Friday 7 January, also lasting for two weeks. The objections received must be considered before

making any decision to dispose of the Site. The objections are summarised in section 13 of this report and at Appendices H - I.

- 4.8 The objections have been carefully considered and this has resulted in a proposed change to the Heads of Terms. This change would secure the continuation of the skate park under the council's management by way of a lease back to the council (for the same term as the university's lease).

Best consideration reasonably obtainable

- 4.9 Authority would 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 current Heads of Terms at Appendix B, which will be subject to an amendment in order to ensure that the skate park is leased back to the council, including authority to agree the purchase price with The University of Southampton on terms that satisfy S123(2) of the Local Government Act 1972.
- 4.10 When disposing of land the council has an obligation to obtain the 'best consideration reasonably obtainable' (section 123(2) Local Government Act 1972). The best consideration reasonably obtainable can be established by way of a competitive process or by a valuation exercise (or both). In this case the council may rely on independent valuation advice as to the market value of the Site. This is a tried and tested method of ensuring compliance with the section 123(2) obligation and is supported by case law. Further, it is considered to be in accordance with standard commercial practice and reasonable to agree the purchase price upon entering into the Agreement for Lease, but in final negotiation with the University it will be agreed whether or not to introduce a re-valuation mechanism prior to grant of the lease.
- 4.11 The appropriate level at which to agree the purchase price (capital receipt) will be assessed by an independent valuer in accordance with S123 'Best Consideration' principles.

Terms of the Agreement for Lease

- 4.12 A full copy of the Heads of Terms can be found at Appendix B.
- 4.13 The grant of the lease is to be conditional upon the university obtaining a planning permission satisfactory to the university for the new campus scheme together with any associated planning or statutory agreements required to implement the planning permission. There is a five year long stop date during which time the university is obliged to use reasonable endeavours to progress and seek planning consent. If this does not happen for whatever reason including if planning permission is refused, the Agreement for Lease may be terminated by either party.

- 4.14 The statutory agreements required before the grant of the lease will include a further decision by the council to appropriate those parts of the Site required for the new campus scheme: see the section below headed Statutory Trust and Appropriation. This point has been agreed with the university.
- 4.15 Under the Agreement for Lease, if a satisfactory planning permission is obtained for the university scheme, the Council commits to demolish the leisure centre building and remediate the Site, prior to granting the 150 year lease.
- 4.16 If a satisfactory planning permission is granted by the council as Local Planning Authority, and the council decides to appropriate those parts of the Site required for the new campus scheme, the council, as landowner, and the university would enter into a 150 year lease, subject to the payment of a capital sum. The capital sum for the disposal will be negotiated in accordance with the requirement to obtain the best consideration reasonably obtainable as noted above.
- 4.17 Under the Heads of Terms, the university have a further 5 years from commencement of the lease before work starts on site, failing which, the council has the opportunity to buy the site back for the same consideration paid by the university.
- 4.18 The lease would be granted subject to the existing lease to the Riverside Indoor Bowling Club, unless the university is able to relocate them to an alternative suitable location on terms acceptable to the club, but otherwise with vacant possession. The club's existing lease is dated 19 November 1997 and is for a term of 90 years commencing on 1 September 1997. It is not contracted out of security of tenure under Part II of the Landlord and Tenant Act 1954. Therefore, the club would continue to have the right to remain in its current location, notwithstanding the grant of the lease to the university.
- 4.19 Under the terms of the university's lease, the use of the Site would be restricted for the first 35 years of the term to the principal use of or in connection with tertiary education and ancillary purposes only. Throughout the term of the lease, use for residential accommodation (including student residences) or for state education or secondary provision will be prohibited.
- 4.20 A change is proposed to the Heads of Terms to secure the continuation of the skate park under the council's management, by way of a lease back of the skate park to the council (for the same term as the university's lease).

Public Procurement Regulations 2015

- 4.21 The council is not specifying the works to be carried out or otherwise contracting on terms which engage a requirement on the council to go through a procurement exercise under the Public Contracts Regulations 2015 (PCR). The council will not be specifying works to be carried out by the university or imposing an obligation on the university to carry out its development (or having any decisive influence on the design (as landowner). The council will

carry out the demolition (and contract for that in accordance with the PCR and contract standing orders). The buy-back provision under the Heads of Terms operates where the University does not implement the planning permission within 5 years form being obtained and does not impose an obligation on the university to carry out works so as to bring the Agreement for Lease within the scope of the PCR.

Public consultation

- 4.22 There is no statutory requirement for a formal public consultation before entering into a leasehold disposal, and nor has the council made a clear commitment to formal public consultation prior to any disposal of the Site. However, prior to the completion of the lease there will be substantial further opportunities for the public and stakeholders to express their views, both in response to the university's application for planning permission and the proposed appropriation of those parts of the Site required for the new campus scheme (see below under the heading Statutory Trust and Appropriation).

Best value obligations

- 4.23 Under S3 of the Local Government Act 1999, a best value authority must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. For the purpose of deciding how to fulfil this duty, an authority must consult specified representatives. Case law establishes that the duty to consult is triggered by decisions about high-level issues concerning the approach to the performance of an authority's functions, and it is about those and not about particular implementation that consultation is required. It is not considered that the proposed decision falls into the category requiring such consultation.

Statutory Trust and Appropriation

- 4.24 The Site forms part of the council's freehold title no. HP3062 which also includes the North Walls Recreation Ground and the site of the Ancient Gateway of Hyde Abbey. This freehold title was acquired under an Indenture dated 3 July 1902 made between William Barrow Simonds and the Urban District Council of the City of Winchester, being the Winchester City Council's statutory predecessor. The conveyance was made "for the purpose of a Public Park and Recreation Ground".
- 4.25 In consequence, a statutory trust arose under section 164 of the Public Health Act 1875, which required the land including the whole Site to be used as "public walks or pleasure grounds". This statutory trust would potentially bind a purchaser of the Site, including the university. However, it is open to the council to bring the statutory trust to an end, insofar as this is required to allow the new campus scheme to proceed, by means of appropriating the relevant part of the Site under S122 Local Government Act 1972 and/or by the exercise of the power under S203 Housing and Planning Act 2016 which

permits works notwithstanding that they interfere with adverse rights or breach a contractual restriction.

- 4.26 More detailed consideration of these matters would be undertaken once the details of the proposed campus scheme were known, and a further decision by the council would be required for those parts of the Site required for the new campus scheme to be appropriated to enable the university's development proposals to move forward.
- 4.27 It should however be emphasised that not only would the skate park and bowls club to continue on the Site, but that continued public access to and recreational use of areas outside the Site, including Hyde Abbey Gardens, the North Walks Recreation Ground and the tennis courts, would be unaffected by the university's new campus scheme. Further, there are footways around all four sides of the Site which allow public access to Hyde Abbey Gardens, the North Walks Recreation Ground and the tennis courts from Gordon Road and Park Avenue.
- 4.28 The appropriation decision would be informed by a report, based on worked out development proposals, addressing the central issue under S122(1) Local Government Act 1972 of whether the relevant part of the Site "is no longer required for the purpose for which it is held". This is a comparative test that involves consideration of whether there is a greater public need for development for the proposed new use than the current use.
- 4.29 Because the Site comprises or includes open space, any such appropriation would need to be preceded by an advertisement in two consecutive weeks in a newspaper circulating in the area, and consideration of any objections to the proposed appropriation: S122(2A) of the Local Government Act 1972. Accordingly, entering into the Agreement for Lease would not of itself change the restrictions on the use to which the Site may lawfully be put; that would require a further decision by the council to appropriate the relevant part of the Site as referred to above.

5 WORKFORCE IMPLICATIONS

- 5.1 Teams from across the council are engaged in this proposal but it is anticipated no further staffing is required other than external legal, communication and valuation advice. Ongoing staffing for all services, including regeneration projects, are included in annual budgets or individual business cases.

6 PROPERTY AND ASSET IMPLICATIONS

- 6.1 The opening of Winchester Sport & Leisure Park has offered the council an opportunity to consider options for use of the now decommissioned River Park Leisure Centre (RPLC) building and the land immediately around it. The North Walls site is an important part of the City and public access will be retained to North Walls. Pedestrian access is maintained along the side of the car park

and along Gordon Road. The council will also retain some of the car park for public use so visitors who need to travel to the Site by car can continue to do so. The play park is retained in council ownership.

7 CONSULTATION AND COMMUNICATION

- 7.1 The University of Southampton and the council set out proposals for the development of the Winchester School of Art campus at a Member Briefing on 20 October 2021 and at a Public Briefing on 1 November 2021 which attracted 191 attendees. Questions raised during these sessions are summarised into 'Questions and Answers' which were published on the council's website.
- 7.2 In addition to a public meeting, individual meetings were held with the Bowls Club and Ward Members.
- 7.3 A petition was submitted in support of a lido at the North Walls Park. Members and officers met with the petition organisers to understand their ideas and shared information concerning the suitability of the Site. The petition was then presented to Full Council on 12 January 2022. The benefits of open water swimming were discussed. The response to the petition was that the council supports open water swimming but due to the current affordability and likely constraints on the Site (which can be found in the 2013 'River Park Leisure Centre Flood Risk Design Note'), the Site was not considered appropriate for a lido. Winchester Town Forum Members have offered to work with the petition organisers to look at outdoor swimming opportunities in and around Winchester Town.
- 7.4 A petition was presented at Full Council concerning the future of the skate park and was debated on the 23 February 2022. The petition was debated in Full Council and referred onto Cabinet to be considered on 9 March 2022.
- 7.5 An Ordinary Petition asking the council to delay this decision for six months and seek further consultation with the public has been received and will be considered by Cabinet on 9 March 2022.
- 7.6 The potential for disposal has been referenced in prior Cabinet reports either through sale or lease. The recommended option of a long lease means that the council maintains rights as freeholder after the end of the term of the lease, which would not be available compared with a sale of the freehold.
- 7.7 The council's previous consultations and engagement relating to the Site (and the wider area) include engagement around:
- North Walls Recreation Ground – March 2019
 - Central Winchester Regeneration – November 2020 to January 2021

- Vision for Winchester (Winchester Town Forum) – December 2020
- The Green Economic Development Strategy – May 2021, and
- Winchester Movement Strategy (part of Hampshire County Council's broader Movement Strategy). – Action plan consultation December 2021 to January 2022
- Local Plan design workshops. Autumn Winter 2021 – outputs to be published as part of the Local Plan in due course

Although these consultations and engagements did not ask for specific comment on the possible future use of the RPLC site, ideas, suggestions and proposals were received and recorded. These are set out in para 12.9.

- 7.8 The Winchester School of Art is in a unique location in our city centre, bounded by residential housing and our city centre green space. The University recognise the importance working with local people to ensure that our community play a role in the development proposals. In developing its new University Strategy, this proposed development by the Winchester School of Art forms part of a wider campus enhancement aligned with the overall development plans for the university as a whole which includes a commitment to work to the principles of a Civic University.
- 7.9 Informal engagement has taken place with skate park users, and a joint meeting between the skate park users, the university and the council has taken place to give assurance that the skate park is recognised as a valuable community asset that will/can be accommodated in the development proposals.
- 7.10 As set out in the broad outline below in paragraph 15.2, the university will engage with local residents and groups from feasibility stage onwards to hear local aspirations. Local residents and stakeholders will have an opportunity to contribute as the site is masterplanned prior to planning applications being submitted for the development of individual elements of the site.

8 ENVIRONMENTAL CONSIDERATIONS

- 8.1 The university has demonstrated that their commitment to the environment is aligned with that of the council. They would aim to provide sustainable assets in terms of design as well as use. This would be tested within the masterplan and during the full business case phases of their development programme.
- 8.2 The University of Southampton's Sustainability Strategy: 2020-2025 defines their ambition to attain net zero emissions by 2030 for Scope 1 and 2 emissions. The organisation is making sustainability part of every university education programme by 2025 and has committed to make it a cornerstone of

the research by and impact of the university's programmes. This would extend to any courses and research activity undertaken following any development on this site. The university aims for BREEAM excellence and over the last decade their new building projects have employed methods such as grey water re-use, photovoltaic cells and passive cooling to maximise the sustainability of various new buildings.

9 PUBLIC SECTOR EQUALITY DUTY

9.1 Under s149 (1) of the Equality Act the council must have due regard, in the exercise of its functions, (and Cabinet must, as the decision maker in respect of the proposed decision, have due regard) to the need to:

- a) Eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Act.
- b) Advance equality of opportunity between persons who share relevant protected characteristics and persons who do not share them.
- c) Foster good relations between persons who share relevant protected characteristics and persons who do not share them.

9.2 An Equality Impact assessment has been completed to assess the Impact of this decision. The Impact assessment is found at Appendix D.

9.3 The proposed decision would create educational opportunities and employment opportunities for younger people.

9.4 Ensuring the skate park stays open and providing increased access to diverse creative forms of education benefits the younger generation of Winchester.

9.5 Maintaining public access to the grass area and hence recreational activities such as walking, picnics and running benefits a wide group of residents particularly parents with young children, children and the elderly.

9.6 The Heads of Terms include maintaining the bowls club benefitting an older segment of residents and retaining access to disabled sports facilities.

9.7 The Agreement for Lease will ensure that public access to the North Walls Recreation Ground would be retained and that a number of onsite parking spaces are available to ensure those with protected characteristics can still easily visit the adjacent public open space.

9.8 Cabinet should refer to the equality impact assessment at Appendix D. Overall, the proposed decision is considered to contribute towards advancing equality of opportunity and, insofar as there may be negative impacts on some persons with protected characteristics which it is not practicable to mitigate fully, it is considered that these are outweighed by the potential benefits described at section 12 below.

10 DATA PROTECTION IMPACT ASSESSMENT

- 10.1 Having had regard to the Council's obligations under the Data Protection Act 2018 and General Data Protection Regulation (GDPR) 2018, it is considered that a Data Processing Impact Assessment (DPIA) is not required for this report.
- 10.2 Any data collected as a result of, any event, consultation and engagement with the project is held in accordance with the Data Protection Act 2018 and General Data Protection Regulations 2018.

11 RISK MANAGEMENT

| Risk | Mitigation | Opportunities |
|--|---|---|
| Financial Exposure Best Consideration (S123) not achieved | The Heads of Terms are not legally binding and an agreement for lease will not be entered into if Best Consideration is not achieved. | Development of tertiary education on this site represents an opportunity to make best use of council assets. |
| Financial Exposure The site is sold on or left in poor repair on handback | The University will not be able to dispose of their interest in the Agreement for Lease. However, they will be able to dispose of their interest in the 150-year Lease once granted. Having invested substantial capital in new educational buildings, and with the Lease being subject to user restrictions, this is considered to be an unlikely risk. The repair of property held on long leases is subject to the provisions of the Leasehold Property Repairs Act which limits the freeholder's ability to enforce repairing covenants. It is also important to recognise that over the term of the | The Council is proposing a long leasehold disposal instead of a freehold disposal to better safeguard the Council's future long-term interest in this site. |

| | | |
|--|--|--|
| | 150-year lease there are likely to be multiple iterations of buildings on the site. | |
| Risk of legal challenge | <p>Risk of legal challenge is mitigated because due consideration has been given to whether the proposed lease arrangements fall within the Public Contracts Regulation 2015; it being concluded that no procurement exercise is required under the PCR.</p> <p>There would be an exposure to potential legal risk if the council failed to secure best consideration, but that risk has been mitigated by taking appropriate valuation advice.</p> <p>Procedural errors or omissions are mitigated with oversight by an appointed QC, including in relation to the later appropriation steps referred to in the report.</p> | |
| <p>Reputation</p> <p>Risk of reputational damage by lack of consultation</p> | Public consultation by the University and the formal planning process will inform the public of future plans, maintaining the reputation of the site as a positive and exciting benefit to the city. | The expansion of a Russell Group university in Winchester enhances the reputation of the city locally, nationally and internationally. |
| <p>Achievement of outcome</p> <p>Planning consent is not obtained.</p> <p>Development is not</p> | The agreement for lease will contain a 5 year long stop date, at which point if planning permission has not been secured the | |

| | | |
|---|--|--|
| delivered. | agreement will be liable to termination by either party. Once planning permission is obtained, the University are subject to a further 5 year long stop for implementation under the lease (and failure will trigger the council's buy-back right).. | |
| Property Business rates costs | A business rates de-listing application is being made to mitigate ongoing costs to the council. The building has been secured and is monitored with security. | |
| Community Support Risk of losing community support | The North Walls Recreation Ground is an important local green space and the Park is not at risk through this disposal The increased numbers of students who may study in the city may lead to concerns regarding housing. The university is clear that appropriate provision must be made off site. | There is significant opportunity for the economic, academic and arts communities if the UoS proposal is realised. |
| Timescales Risk that the agreement for lease ties up the site for a long period prior to planning consent being granted. | To minimise the risk the Heads of terms include a 5 year long-stop date which will be incorporated in the Agreement for Lease. | This is an opportunity to design and build an important new addition to the city and create a facility fit for the future. It will take time and investment to work through feasibility and design options with input from stakeholders. |
| Project capacity | The university will be deploying a full | |

| | | |
|--|---|--|
| University and council lack capacity to move the scheme forward | professional team to design and manage the engagement, planning application and construction processes. The council will require resources to demolish the existing structure and manage the pre-application and formal planning application process. | |
| Failure to secure planning permission for the redevelopment of the site in the requisite time scale. | <p>There is a risk relating to the granting of planning permissions. This applies to all development proposals.</p> <p>To mitigate this, proposals would need to be developed as early as possible, and in pre-application consultation with the council, as Local Planning Authority, to ensure that the development which is subject of an application has the best opportunity to receive planning permission.</p> | |

12 SUPPORTING INFORMATION:

- 12.1 The Winchester School of Art is located in the heart of the City and has, in various forms, been part of the City for over 150 years. The School is located next to North Walls Recreation Ground, a much loved and vital piece of green space for the City, along side other recreation facilities including the skate park, play park and bowls club. Until May 2021 with the opening of the Winchester Sport and Leisure Park, the River Park Leisure Centre served the City. Our historic City is compact and walkable and development proposals must sit well within the heritage context as well as provide opportunity for our residents, and future generations to live, work and play in Winchester and district.

- 12.2 The Winchester School of Art is a part of the University of Southampton, a founder member of the Russell Group of Universities. The university wishes to develop the creative offer at the Winchester School of Art to build 'a nationally and internationally recognised significant centre for art, design and creative industries education, research and innovation'.
- 12.3 With proposals to enhance the old Police Station site and the River Park Leisure Centre Site, the university has plans to expand and has identified Winchester as having the potential to be a national 'seat of learning', renowned as an international 'beacon city' of academic excellence on a level with Oxford and Cambridge.
- 12.4 Over recent months the council has been in dialogue with the University of Southampton regarding development of the Site.
- 12.5 The university has had a relationship with the city and its council for decades, largely through the presence of the art school, Winchester School of Art which itself has been a part of the city for over 150 years. Recently, in the context of shaping its plans for the growth of WSA and the improving of its campus, the university's new institutional strategy has been and approved by its governing body (the University Council). In this context, the possibility of acquiring the Site has prompted some ambitious and compelling discussions around the vision that the city of Winchester and the University can be more strategically intertwined.
- 12.6 The new University Strategy is set to support growth – not just in numbers of students, but in research and enterprise reach and impact, and in its civic role as a regional 'anchor institution', delivering significant socio-cultural and economic value. This does not immediately generate a fixed and specific plan (to move a particular activity/faculty to Winchester, for example), but rather, has suggested that the Site could provide the opportunity to do something newly creative, different and multidisciplinary in a new facility, which would have a cultural, entrepreneurial, publicly engaging presence, as well as being a centre for research and learning.
- 12.7 Considering this proposal from the University of Southampton supports the Council Plan, such that it provides a use for this land asset which is anticipated to bring considerable benefits to the city. Other options for redeveloping the Site are limited. This proposal offers the council:
- a) Delivery of a development that is in line with economic and social ambitions for the future of the city whilst preserving the skate park, bowls club and North Walls Park.
 - b) The prospect of securing a significant capital receipt.
 - c) The opportunity to secure a development which will contribute towards economic prosperity of the city.

- d) An enhancement of the city's tertiary educational offer and the related potential long-term reputational enhancements.

12.8 The potential benefits to the people of Winchester and District include:

- The provision of facilities and opportunities for younger people;
- Improved economic benefits from a (planned for) increase in student population;
- Potential for significant economic benefit as identified in section 1.3 of this report
- The establishment of a central hub for our already well established creative, digital/technical sector;
- The enhancement of the city's cultural offer in an area of considerable historic importance (the heritage site of Hyde Abbey and the Hyde Gateway are adjacent to the area). The provision of an accessible cultural resource within the development could therefore meet local demands around promoting vibrancy in this area and also garner possible economic benefits from the visitor economy.

12.9 Through various engagement and communications channels the public have provided the council with the following ideas for use of the site:

- Housing/affordable housing
- Care setting for the elderly
- Primary school
- Start-up spaces for businesses
- Community centre
- Theatre/concert hall
- Open air theatre
- Arts centre
- Museum
- Adult Education College
- Café and toilets
- Council offices
- Reinstate as a sports centre
- Lido
- Outside gym
- Artificial turf pitch/football ground
- Indoor tennis club/tennis courts

12.10 A number of the above suggestions have been adopted and are anticipated to be brought forward through other projects such as the North Walls Park Plan which includes a café and toilets. Additionally, the university's proposal includes a publicly accessible performance space.

- 12.11 The university propose to take a contextually astute approach to any development, considering carefully with the city council, the local and regional context— environmentally, culturally, and economically— to ensure new activities will be well-tuned to needs, opportunities and challenges. A development on the RPLC site, alongside a developing art school, would deliver tangible benefits, not just in terms of longer-term economic impact (jobs, skills, business support etc), but also would deliver direct community advantage through an ‘permeable campus’ ethic, libraries, eat/drink venues, flexible performance and events infrastructure, considerate landscape and greenspace stewardship, and a greatly enhanced offer to local citizens, of all ages, including young people.
- 12.12 This proposal to expand teaching at the Winchester School of Art would lead to an increased number of students attending the Winchester campus to study. The university understand that appropriate numbers of student housing units will be required but cannot be provided for on site. The council have previously provided introductions to appropriate developers where opportunity has arisen and is actively engaged with the university on helping them find the most appropriate solution for student housing provision.
- 12.13 The Agreement for Lease would enable the university to explore, consult and potentially to bring forward their proposal for a transformational development to the Winchester School of Art campus at the land currently occupied by the now closed leisure centre and associated parking area. The campus development will further cement the University of Southampton as a world leader in creative industries and enhance the reputation of Winchester as a creative centre in the UK.
- 12.14 The site has become available at a time when the university is in a position to consider it for development in line with their University Strategy. This offers a unique, once-in-a-generation opportunity to work together to realise aligned ambitions for both the council and the university.
- 12.15 The arrangements between the university and the council during the Agreement for Lease period would be governed through a steering group – details of which will be finalised subject to the Cabinet approving the recommendations of this report.
- 12.16 The proposal that the council has received from the University of Southampton would deliver the council’s ambitions for this site. For example, the proposed expansion includes a publicly accessible performance space, a benefit for the city which has been requested by residents during previous engagement.
- 13 Statutory Notice of Disposal
- 13.1 On 5 and 7 January 2022, identical notices were published in local newspapers for a period of two weeks in respect of the proposed disposal of open space under Section 123 (2A) of the Local Government Act 1972. The notices set out the council’s intention to enter into an agreement to grant a

lease for a term of 150 years, of the area which is or may be open space, to the University of Southampton. A copy of the notice is at Appendix E.

- 13.2 A plan accompanying the notices (ref: 4933), showed the extent of the land subject to the notices, which is immediately to the east of but did not include the former leisure centre. The land subject to the notices included the land currently occupied by the Skate Park and Indoor Bowling Club. A copy of this plan is at Appendix F.
- 13.3 The number of objections received was 428, together with a petition containing 2,265 signatures, which was presented to Full Council on 23 February 2022. A summary of the objections and associated responses are found at Appendix H.
- 13.4 A group called the Friends of River Park circulated a detailed objection in response to the notices, which in turn formed the basis of many of the objections received. The full text of the Friends of River Park objection is reproduced as Appendix G.
- 13.5 A number of the above objections were not directly related to the land which is the subject of the notices. However, it is considered that the concerns raised will still be of interest to Members so they are included in the table found in Appendix H.
- 13.6 A highlight of some of the objections include the following;
- a) The council is not legally in a position to grant the lease to the University of Southampton, as the City Council is the trustee of the land and therefore not the owner. It is asserted that this means the council cannot enter into the leasing arrangements, because the council is precluded from doing so by the Indenture of 1902. This is addressed in the legal implications above, under the heading Statutory Trust and Appropriation.
 - b) Insufficient consultation on the disposal and future uses of the Site the subject of the notices, and the adjoining leisure centre. As stated above, there is no statutory requirement for a formal public consultation before entering into a leasehold disposal, and nor has the council made a clear commitment to formal public consultation prior to any disposal of the Site. However, prior to the completion of the lease there will be further opportunities for the public and stakeholders to express their views, both in response to the university's application for planning permission and the proposed appropriation of those parts of the Site required for the new campus scheme.
 - c) The new proposals are not in the interest of the local community, and do not have any public benefit, and there is no guarantee of any public access. The contractual arrangements to be entered into with the university will ensure the continuation of the skate park and will also be subject to the existing lease to the bowls club (unless they agree to

relocate). Therefore, the existing recreational uses and the public benefits they bring, will remain.

- d) The Skate Park is loved and should remain. It is in excellent condition, and highly accessible. Skateboarding is a recognised Olympic sport. Having taken account of public feedback, the arrangements now include a provision for the council to take a 'lease back' of the skate park. This will secure the continuation of the skate park under the council's management. It was never the intention for the skate park to be lost as it is recognised as a well-used and valuable community asset.
- e) The land should remain public open space. It should be emphasised that not only will the skate park and bowls club continue on the Site, but that continued public access to and recreational use of areas outside the Site, including Hyde Abbey Gardens, the North Walks Recreation Ground and the tennis courts, will be unaffected by the university's new campus scheme.

14 Planning Considerations

- 14.1 The Site is located just outside the settlement boundary of Winchester in an area defined in the adopted Local Plan as countryside but is occupied by the former leisure centre building so falls within the definition of previously developed land for planning purposes.
- 14.2 Policy DM1 (Location of new development) and Policy MTRA4 (Development in Countryside) which guide the location of new development within the district, would apply to any redevelopment proposals for the land, and identify the types of development that will generally be acceptable in the countryside. Any development proposals would need to accord with these policies and all the other relevant development plan policies, and national planning guidance, which relate to the more detailed aspects of schemes including matters such as sustainability, high quality design, and relationship with neighbouring uses, biodiversity impact and flood risk unless there were sound planning reasons to grant permission as a justifiable exception to policy.
- 14.3 The Site is also adjacent to the South Downs National Park (SDNP). There are views into, and out of the site, to the park which will be one of the key matters to consider when bringing forward plans for the redevelopment of the Site (Policy CP18 – South Downs National Park).
- 14.4 As mentioned above the Site falls within the definition of previously developed land. This means that, in accordance with paragraph 85 of the National Planning Policy Framework, the use of such land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.
- 14.5 As the proposals by the university are likely to increase the number of students, and student accommodation is not going to be put forward on the

Site, it will be important that any scheme for the redevelopment of the Site comes forward with a strategy designed to address the demand for additional student housing in the city.

- 14.6 The council is currently in the process of producing a new Local Plan and will consult on a draft document later this year. This provides opportunity to review the policy context of the town, including the Site, particularly given the recent closure of the leisure centre.

15 Governance

- 15.1 Moving forward a joint steering group consisting of the University of Southampton and City Council would be established. The Terms of Reference for this group will oversee public consultation and engagement through the informal early stages as the University's proposal is developed and into more formal Consultation at appropriate legal and Planning application stages.

- 15.2 As well as keeping the public informed regularly, the milestone stages would include:

- a) Feasibility – to be commenced spring/summer 2022
- b) Development of proposals
- c) Formal Planning
- d) Appropriation

16 OTHER OPTIONS CONSIDERED AND REJECTED

- 16.1 Option 1: Refurbishing the existing River Park Leisure Centre

Previous committee reports considered the option of refurbishing the existing leisure centre but it was determined that the building was beyond its useful life and would require in excess of £10 million to bring it up to a suitable standard. Although the old leisure centre was much loved locally, in addition to the new sport and leisure park at Bar End, there are several other private leisure providers in the city centre and as demonstrated through the Sports Facilities Needs Assessment (2017 to 2037) it is not required to meet current or future demand.

This option was rejected by Cabinet by its decision dated 24 June 2020 and is not recommended.

- 16.2 Option 2: Potential site for housing development.

Housing on the RPLC site is not a good option given that the site is located in a flood risk area i.e. in Flood Zone 2 and 3. The NPPF states that

‘Development should not be allocated or permitted if there are reasonable available sites appropriate for the proposed development in areas with a lower risk of flooding’.

This option is not recommended.

16.3 Option 3: Demolition and restoration as public open space

The old leisure centre is sited at the entrance to North Walls Recreation Ground and although it would be possible to demolish and restore the Site to public open space this is not recommended because it does not take the opportunity to make the best use of the Site when other uses would deliver better cultural and economic advantages for local people and the wider city.

This option is not recommended.

16.4 Option 4: Redevelop for surface car parking.

There are 192 spaces on the Site at present and the Heads of Terms envisage the retention of 77 spaces. Development of the site for surface car parking would be contrary to the Council’s Parking and Access Strategy, Carbon objectives and the Winchester Movement Strategy.

This option is not recommended.

16.5 Option 5: Redevelop the site for a Lido.

The council supports open water swimming but due to the current affordability and likely constraints on the Site (which can be found in the 2013 ‘River Park Leisure Centre Flood Risk Design Note’), the Site is not considered appropriate for a lido. Winchester Town Forum Members have offered to work with the public to look at outdoor swimming opportunities in and around Winchester Town.

This option is not recommended.

BACKGROUND DOCUMENTS:-

Previous Committee Reports:-

CAB3093 Future use of site October 2018

CAB3190 Future use of site October 2019

CAB3242 RPLC Decommissioning Report June 2020

CAB3324 A land transaction in respect of the River Park Leisure Centre site and associated parking area November 2021

CAB3319 WINCHESTER DISTRICT GREEN ECONOMIC DEVELOPMENT
STRATEGY October 2021

CAB3336 RPLC Decision to withdraw Decision made on 23 November 2021 in
report CAB3324

Other Background Documents:-

[RIVER PARK LEISURE CENTRE FLOOD RISK DESIGN NOTE](#)

[City of Winchester Movement Strategy](#)
[University](#) of Southampton Sustainability Strategy 2020 - 2025

[Vision for Winchester 2030](#)

[North Walls Engagement Event 22 & 23 March 2019](#)

[CWR Development Proposals](#)

Winchester Movement Strategy [Consultation](#)

APPENDICES:

Appendix A – Plan of Site

Appendix B – Heads of Terms

Appendix C – Exempt paper - Lease Premium (Purchase Price)

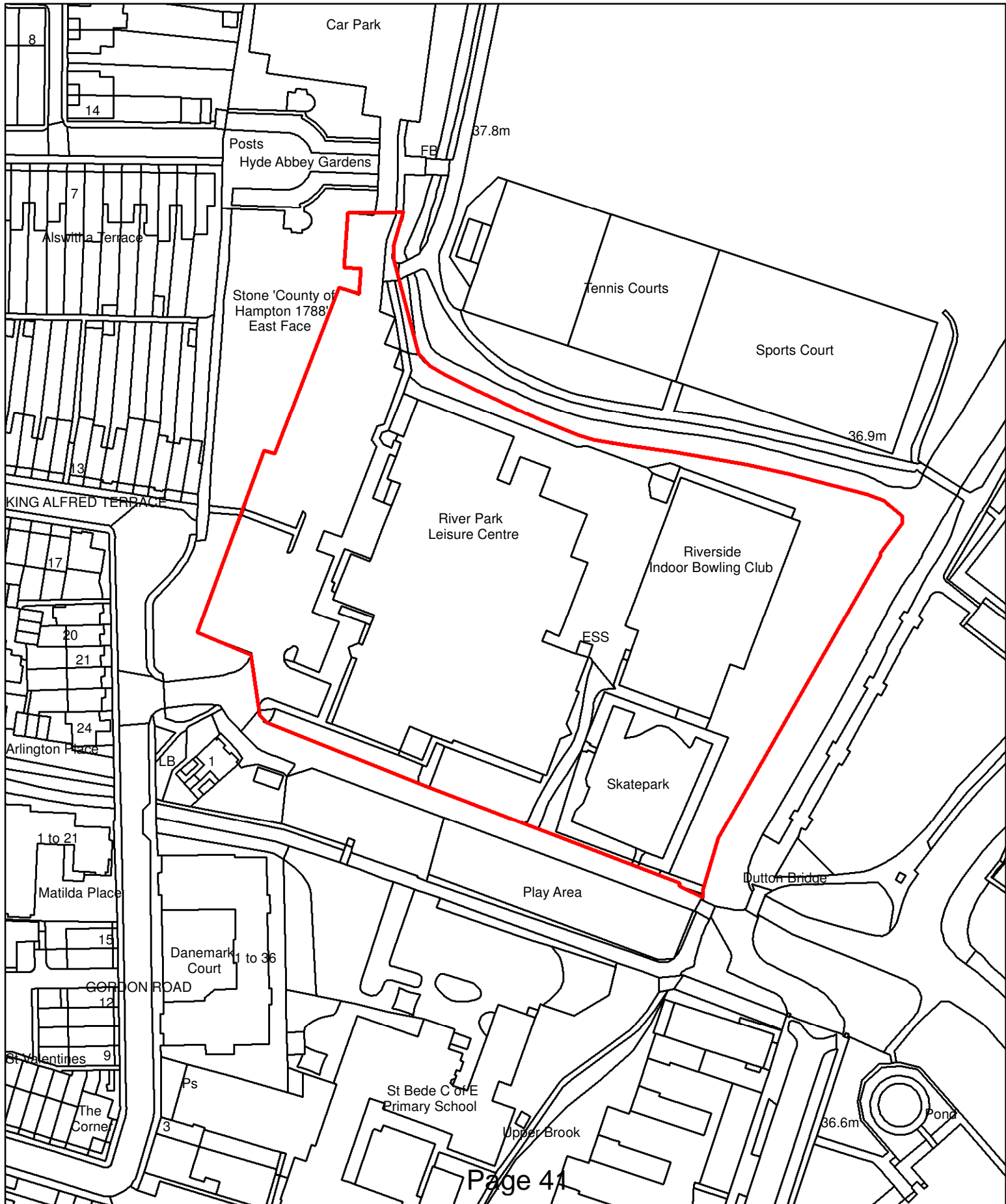
Appendix D – EQIA

Appendix E – Copy of Advertisement

Appendix F – Open Space Site plan

Appendix G – Friends of River Park Objection

Appendix H – Objections and Responses



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DRAFT Head of Terms for purchase of River Park Leisure Centre, Winchester DRAFT

Subject to contract

| | |
|-----------------------------------|---|
| Seller | Winchester City Council of City Offices, Colebrook Street, Winchester SO23 9LJ |
| Buyer | University of Southampton (a higher education establishment incorporated by royal charter in England and Wales with number RC000668) whose administrative offices are at Building 37, Highfield Campus, Southampton SO17 1BJ |
| Property | <p>Site of the former River Park Leisure Centre (RPLC), off Gordon Road, Winchester.</p> <p>The Property is shown edged red on the attached plan (which for the avoidance of doubt is indicative only and subject to review) and includes the site of the Riverside Indoor Bowling Club and the Skate Park.</p> <p>The Seller will retain access rights through the Property to the Seller's retained car park to the north-west. The access currently runs through the western car park at the Property but may in the future be reasonably relocated to allow for the Buyer's proposed development where such access is not materially less convenient.</p> <p>See the <i>Tenancies</i> and <i>Lease Terms</i> sections below for further terms applicable to the Bowling Club and the Skate Park.</p> <p>A final plan showing total extent of agreed Property/final boundary to be settled/supplied.</p> |
| Tenure | <p>Long leasehold.</p> <p>The Property is to be purchased by way of the grant of a new 150 years long lease and the parties will enter into an agreement for lease.</p> <p>See <i>Lease terms</i> below for more details</p> |
| Price | <p>The price is to be determined before exchange of the agreement for lease and paid on completion of the purchase when the long lease is granted (see the <i>Conditions & Timing</i> section below).</p> <p>Prior to exchange of the agreement for lease the Seller is to instruct its valuers to provide a valuation and the Buyer may, at its own cost, undertake a valuation to help inform negotiations.</p> <p>No deposit will be paid.</p> <p>No further sums, beyond the price, will be paid by the Buyer to the Seller for the Property.</p> <p>Seller to confirm VAT position.</p> |
| Demolition and remediation | <p>The Seller will retain control over the procurement and timing of demolition subject to an obligation to provide the Buyer with a cleared and remediated site (to be defined in the draft Agreement for Lease) before the Buyer completes the purchase of the Property.</p> <p>The detailed provisions regarding demolition and remediation to be further agreed in settling the agreement for lease.</p> <p>The parties recognise the need for all reasonable steps to be taken to coordinate and synchronise the timing of the demolition and remediation with the purchase to minimise so far as reasonably possible any adverse consequences which delays</p> |

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| | <p>may cause to the Seller's receipt of the Price or to the Buyer's development programme.</p> <p>The parties will explore further the means by which the Seller's risk of (and cash flow for) paying for the demolition and remediation might be reasonably mitigated.</p> |
| <p>Conditions & Timing</p> | <p>The parties are targeting issuing a draft agreement for lease by the end of November 2021.</p> <p>The parties will use reasonable endeavours to exchange contracts (being an agreement for lease) as soon as possible and in any event by the end of March 2022.</p> <p>The purchase of the Property will be conditional on securing an unfettered planning permission (together with any associated planning or statutory agreements required to obtain or implement the planning permission) satisfactory to the Buyer (see Planning section below).</p> <p>The minimum trigger for grant of the long lease will be the approval and issue of consent to the Buyer's 'Outline Planning Application' for the RPLC site. The Buyer will commission its planning consultant to provide the detailed wording for defining 'planning consent' for review by the Seller. In the first instance, the references in these terms <i>to associated planning or statutory agreements required to obtain or implement the planning permission</i> shall include, at the Buyer's option, reserved matters approval for (and discharge of any critical pre-commencement planning conditions required for) the first building forming part of the campus scheme at the Property whose foundations/footings need to be laid to deal with the Seller's buy-back right (see the <i>Buyer's works and Seller's buy-back</i> section below) as well as any traffic regulation or similar orders. Regardless of what the Buyer chooses to pursue by way of such associated planning or statutory agreements required to obtain or implement the planning permission, nothing shall extend the 5 year period referred to below.</p> <p>If the Buyer confirms that it is satisfied with the planning permission (as defined) and that therefore the planning condition under the agreement for lease is satisfied then the Buyer shall have 4 months to confirm it still wishes to proceed to acquire the Property and:</p> <ul style="list-style-type: none"> • if it does then the purchase will complete by way of completion of the long lease and payment of the price by the Buyer to the Seller; and • if it does not then either party may terminate the agreement for lease. <p>If the Buyer does not satisfy the planning condition within a period of 5 years from the date of entering into the agreement for lease then either party may terminate the agreement for lease. The 5 year period shall afford the Buyer time in which to withdraw and submit any alternative application/s, or to allow for JR or appeals etc, and enter into any associated planning or statutory agreements required to obtain or implement the planning permission and generally be fully satisfied that the planning condition is satisfied. This 5 year period will not be capable of extension.</p> <p>The purchase will be completed (and the long lease granted/price paid) eight weeks after the Buyer confirms it wishes to proceed following satisfaction of the planning condition. To be clear, the Seller must at that stage complete the sale.</p> <p>In addition to progressing the two level levels of design: A) masterplan and B) individual building design and planning applications as appropriate (see the <i>Planning</i> section below), the Buyer also intends to use the 5 year period to complete all of its detailed physical and other due diligence, all site evaluation and surveys etc as well as its own business case for developing the campus scheme. The Buyer will also inform the Seller should the use of its powers of appropriation be required</p> |

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| | <p>to bring forward the Buyer's proposals and the use of such powers shall not be unreasonably withheld by the Seller. To the extent the use of any appropriation powers are required for the Seller to be able to sell the Property by way of entering into the agreement for lease or completing the long lease then the seller will confirm that to the Buyer.</p> <p>The Buyer will have an option to terminate the agreement for lease if, at any time, the Buyer believes that either there is no reasonable prospect of satisfying the planning condition or that the campus scheme cannot be viably delivered for the Buyer.</p> |
| Planning | <p>The parties will agree a broad/general written description of intent for the new campus scheme comprising a brief narrative (but without any visuals or masterplan graphics) to include in the agreement for lease.</p> <p>This narrative is to be in reasonably sufficient detail to be understood meaningfully against the later masterplan and planning application.</p> <p>The narrative will include the parties' aspiration for the scheme to include provision for a publically accessible performance space but without any fixed parameters around that as to the scope and extent of it.</p> <p>The Buyer will use reasonable endeavours to advance a masterplan proposal based on that written description and thereafter submit a planning application for a new campus scheme (which application may be outline, detailed or hybrid/partially detailed) as soon as reasonably practicable in line with the Buyer's own design, feasibility, procurement and other necessary management procedures).</p> <p>The Buyer will have absolute discretion over the campus scheme (subject always to any general parameters of the initial written description and the planning requirements and lease terms).</p> <p>The Buyer will consult with the Seller on the masterplan and thereafter the planning application and the Seller may make representations but there will be no right of veto on the part of the Seller and no obligation on the part of the Buyer to accommodate the Seller's comments/representations or amend the masterplan or the application in light of any comments/representations on the part of the Seller.</p> <p>The Seller shall be entitled to make representations to the planning authority on the planning masterplan and/or the planning application. The Seller shall not however object to the principle of the new campus scheme.</p> <p>The Buyer will bear all of its own costs in connection with preparing and advancing the masterplan proposal and planning application including commissioning all necessary reports and surveys.</p> <p>Neither party may waive the planning condition.</p> <p>Once the Buyer has been issued with the planning permission (as defined) for a new campus scheme then neither party may waive clearing any JR period in respect of that planning permission.</p> <p>After that, the Buyer alone may waive:</p> <ul style="list-style-type: none"> • Completion of any associated planning or statutory agreements required to obtain or implement the planning permission; and • Clearing any JR period in respect of those agreements |

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| <p>Access, surveys and investigations</p> | <p>The agreement for lease will grant the Buyer a licence to have access to the Property to carry out all necessary inspections, surveys, studies and investigations and for any other reasonable purposes to allow the Buyer to advance its planning masterplan/application, satisfy the planning condition, prepare for development of the Property and otherwise as a contracting purchaser. This will extend to intrusive investigations (environmental, ground condition, archaeological or otherwise) except in relation to the swimming pool which cannot be touched.</p> <p>The terms of the licence will provide for the usual reasonable safeguards to protect the Seller as landowner and will require reasonable closing up/back-filling of any openings / holes, trenches or pits from intrusive investigation works necessary so that the Property is left in a safe condition and to enable the Seller's meanwhile uses. The licence will not though require any material reinstatement (in the sense of returning the Property in exactly the same state) given the proposed redevelopment.</p> <p>The Buyer may but shall not be obliged to share copies of any drawings, surveys or reports with the Seller. If it does, the Seller shall (i) not have to pay for them but (ii) have no reliance on them and the Buyer shall have no liability to the Seller for their contents.</p> |
| <p>Buyer's works and Seller's buy-back</p> | <p>The Buyer will have absolute discretion over the works (subject always to planning and other legal requirements) including any phasing except for the demolition and remediation works to be dealt with by the Seller.</p> <p>The Seller will carry out demolition and remediation and deliver up vacant possession in accordance with the Buyer's programme.</p> <p>The Buyer will act in good faith in making available the green open areas of the site pending commencement of the main campus scheme works but the Buyer must have absolute discretion about whether, how much and for how long such arrangements subsist and they must not interfere with the Buyer's own plans.</p> <p>If the Buyer does not implement the planning permission for the campus scheme (or any replacement or varied permission for a campus scheme) within 5 years from completing the purchase of the Property the Seller may buy back the Property. The parties agree that for these purposes implementation requires a material start on site under a contract for works and can be satisfied by material completion of the foundations/footings for the first building forming part of the campus scheme at the Property (which may have planning permission by way of reserved matters approval pursuant to the outline/masterplan permission or by way of a subsequent detailed permission for a specific building or buildings).</p> <p>The key terms for the buy-back are:</p> <ul style="list-style-type: none"> • It will be documented as an option to call for a surrender of the long lease contained in the agreement for lease • It may only be exercised if the Seller pays to the Buyer the same price which the Buyer paid for the long lease (with the Seller bearing any SDLT liability) • It may only be exercised (i.e. triggered) for a period of 6 months from the 5 years date and will then fall away forever • It will also fall away forever once the relevant planning permission is implemented. |

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| | <ul style="list-style-type: none"> • It will be exercisable in respect of the Property in whatever condition it is when the buy-back is exercised without any obligation on the Buyer to do, or not do, any works or other actions at the Property during its ownership |
| <p>Lease terms</p> | <p>The key terms of the long lease are:</p> <ul style="list-style-type: none"> • 150 year term from completion of the purchase • Contracted out of security of tenure to facilitate the landlord (Seller) buy-back (see the Buyer's works and Seller's buy-back section above) • Peppercorn rent • No repair covenants. The Buyer will agree that, in the event that disrepair causes someone to bring a claim against the Seller as freeholder, the Buyer will (as between Buyer and Seller) deal with such a claim (in the event that it's a legitimate claim and not otherwise covered by the Seller's or Buyer's public liability insurance) and indemnify the Seller • Rights and reservations between the Property and the Seller's retained land to be identified and agreed as part of the Buyer's due diligence • Special terms for the Buyer's rights in relation to the skate park for (i) the Buyer to retain the skate park (subject to any reasonable relocation or remodelling to better incorporate it into the campus scheme environment) and/or (ii) the Seller to have reasonable input into the Buyer's management of the skate park land included within the Property as a community use to the reasonable satisfaction of the Seller (eg by way of a jointly agreed management protocol or management agreement (outside the long lease)). The form of any such management protocol or management agreement is to be agreed as part of settling the agreement for lease. • Otherwise virtual freehold basis so no material tenant covenants; no restrictions on alienation (subject to the landlord being informed upon each and every assignment/subletting), use (save for any agreed restrictions as below) or development (subject always to obtaining any planning permission); no forfeiture or other landlord break rights; no obligation to pay for any services or insurance • The permitted use is to be restricted: <ul style="list-style-type: none"> ○ throughout the term so that the Property shall not be used <ul style="list-style-type: none"> ▪ for residential accommodation (including student residences); nor ▪ for state education of primary or secondary provision (but with a suitable carve out to prevent this restriction prohibiting outreach initiatives and other school engagement as part of tertiary education / university use) ○ for the first 35 years to principal uses of or in connection with tertiary education (including university) and ancillary purposes only. <p>In addition in the context of the long lease, the principle of potential shared use of the Buyer's car park with the public is recognised as a matter to be further explored.</p> |

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| Tenancies | <p>Apart from any lease of the Riverside Indoor Bowling Club, the Property is to be sold with vacant possession.</p> <p>Between agreeing these terms and completion of the purchase:</p> <ul style="list-style-type: none"> • the Buyer shall be at liberty to negotiate with the Riverside Indoor Bowling Club about how their club can be factored into the wider campus scheme including potentially relocating them to an alternative suitable site (on terms acceptable to the club); and • the Seller will not grant leases or licences for third parties to occupy the Property without first consulting with the Buyer and the Seller may grant short term contracted out leases or licences for appropriate temporary uses (including use of part of the Property for police dog training) which do not prejudice the planning prospects or increase the Buyer's development costs subject always to the ability for the Seller to immediately terminate such arrangement and obtain vacant possession of the Property. No other types of leases or licences are to be granted. <p>Otherwise, the Seller and the Buyer shall act reasonably (but without commitment) in exploring opportunities to maximise the beneficial use of the Property and minimise management costs subject always to preserving the Buyer's best prospects of satisfying the planning condition.</p> <p>The Seller shall be liable for any contamination or other spoil / waste / obstructions left at the Property by any of its temporary use occupiers.</p> <p>All management liability is to remain with the Seller until completion of the purchase.</p> |
| Seller support | <p>The Seller will continue to manage the Property in line with reasonable estate management principles for a site including vacant buildings and will not deal with the Property in any manner which is inconsistent with the Buyer's objectives of securing planning permission for its campus scheme (or otherwise in any way to the detriment of the Buyer) before completion of the purchase.</p> <p>The Seller will, in its capacity as owner of the Property (and not so as to fetter its discretion as planning authority), provide the Buyer with reasonable support:</p> <ul style="list-style-type: none"> • with the master-planning, feasibility and the planning processes including all necessary reports, surveys and investigations which the Buyer commissions or carries out and specifically entering into any necessary planning or statutory agreements (on terms to be reasonably approved by the Seller) • with discussions with the Riverside Indoor Bowling Club <p>The Seller will provide all appropriate documentation and records prior to commencement of demolition and site remediation works such that the Buyer can discharge its statutory duties in relation to Health and Safety and environmental legislation.</p> |
| Capital Allowances | <p>The buyer is to have the benefit of any capital allowances in respect of the Property.</p> |
| Miscellaneous | <p>These terms are subject to:</p> <ul style="list-style-type: none"> • formal approval of the appropriate board or other executive body of the Buyer and the Seller (and any necessary consents required for the |

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| | <p>University to enter into this transaction as an exempt charity under the Charities Act 2011)</p> <ul style="list-style-type: none"> • the Buyer conducting the usual buyer / conveyancing due diligence in respect of searches, title and the lease of the Riverside Indoor Bowling Club and otherwise verification of vacant possession (and that no special consents are required because of the sale of sports/community assets) • both parties satisfying themselves as to procurement, state aid and tax advice • the Seller resolving any appropriation formalities to enable the Seller to enter the agreement for lease and complete the sale of the Property by way of completion of the long lease |
| Costs | Each party is to be responsible for its own costs in connection with this transaction. |
| Exclusivity & confidentiality | <p>During the negotiation of and from the date of agreeing these Heads of Terms, the Seller will allow the Buyer exclusivity in respect of the Property such that the Seller (and its representatives) will not have or encourage any discussions with any third party in respect of the Property until exchange.</p> <p>These terms are, and should remain, confidential to the parties in the proposed transaction and their professional advisors save as expressly agreed otherwise.</p> <p>The parties will agree a mutually acceptable comms strategy that will bind both parties to agreeing any public statement before its release and include a stakeholder management plan that will be monitored and updated until completion.</p> |

End

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Winchester City Council



Data and Equality Impact Assessment

When undertaking your Data and Equality Impact Assessment for your policy or project, it is important that you take into consideration everything which is associated with the policy or project that is being assessed against the Data Protection Act 2018 and General Data Protection Regulations and the public sector equality duty, as set out at section 149 of the Equality Act 2010.

The checklist below is to help you sense check your policy or project before you move to Section 2. Note that the public sector duty is inclusive and not exclusive if there are any other relevant matters please insert a row.

Section 1 - Data Checklist

| | | Yes/No | Please provide details |
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| 1 | Have there been any complaints data related to the policy or project you are looking to implement? | No | There have been no complaints data related to project to be implemented. |
| 2 | Have all officers who will be responsible for implementing the policy or project been consulted, and given the opportunity to raise concerns about the way the policy or function has or will be implemented? | Yes | The project was run by a small team due to the commercial content of the deal. The implementation for this project is the delivery of the Heads of Terms, and Agreement for lease. All appropriate officers have reviewed the project. |
| 3 | Have previous consultations highlighted any concerns about the policy or project from an equality impact perspective? | No | There is no formal statutory requirement for consultation in this proposed leasehold disposal. A community presentation by the university did not highlight any concerns from an equality impact perspective |
| 4 | Do you have any concerns regarding the implementation of this policy or project? | No | The implementation of this project will be undertaken in |

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| | <i>(i.e. Have you completed a self-assessment and action plan for the implementation of your policy or project?)</i> | | accordance with the equality objectives of the University of Southampton as well as the equality duties owed by the Council, found here: https://www.southampton.ac.uk/diversity/our-commitment/objectives.page and data protection policies found here https://www.southampton.ac.uk/legalservices/what-we-do/data-protection-and-foi.page The steering group will undertake EqIA's and data self assessment as the project evolves and is implemented. |
| 5 | Does any accessible data regarding the area which your work will address identify any areas of concern or potential problems which may impact on your policy or project? | No | The data is captured in the self-assessment as below. |
| 6 | Do you have any past experience delivering similar policies or projects which may inform the implementation of your scheme from a data protection point of view? | Yes | This is a Land Transaction. The lease will be published on the HMLR website by Land Registry. |
| 7 | Are there any other issues that you think will be relevant? | No | |

Section 2 - Your Equality Impact Assessment form

| | | | | |
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| Directorate: | Your Service Area: Strategic Director | Team: ELB | Officer responsible for this assessment: Dawn Adey | Date of assessment: November 2021 |
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| | Question | Please provide details |
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| 1 | What is the name of the policy or project that is being assessed? | Land Transaction – former River Park Leisure Centre Site |
| 2 | Is this a new or existing policy? | The decision relates to a land disposal transaction. |
| 3 | Briefly describe the aim and purpose of this work. | The project is a disposal of land to the University of Southampton, which would enable the university to bring forward their proposal for a transformational development to the Winchester School of Art campus at the land currently occupied by the now closed RPLC and leisure centre parking area. It contributes to a 'youth and culture corridor' creating opportunities for young people to learn and develop in accordance with equality legislation. In addition the proposed disposal to the university will ensure continued public access and management of the skatepark and the bowling centre. |
| 4 | What are the associated objectives of this work? | To secure a future for the site in keeping with corporate policies and priorities, and provide opportunities for the younger generation. |
| 5 | Who is intended to benefit from this work and in what way? | This land proposal would provide increased presence of a Russell Group University in Winchester, benefitting the young by providing 'a nationally and internationally recognised significant centre for art, design and creative industries education, research and innovation'. This will create education opportunity and employment opportunity for |

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| | | <p>younger people.</p> <p>The young, elderly and parents will also benefit from this decision. Ensuring the skate park stays open and providing increased access to diverse creative forms of education benefits the younger generation of Winchester. Maintaining public access to the grass area and hence passive recreational activities such as walking, picnics and running benefits a wide group of residents particularly parents and the elderly. The heads of terms associated with the land transaction include maintaining the bowling club benefitting an older segment of residents and retaining access to disabled sports facilities.</p> |
| 6 | What are the outcomes sought from this work? | To dispose of the land to secure its future in a deal which offers the new use of the land in fitting with the Councils corporate priorities and at an appropriate price point. |
| 7 | What factors/forces could contribute or detract from the outcomes? | A delay to the implementation of the project may result in the loss of the proposal and therefore loss of an economic and creative asset for all generations of users. |
| 8 | Who are the key individuals and organisations responsible for the implementation of this work? | The Council has a directly employed asset management team which manages property disposal. Implementation of any new proposal will be led by the University of Southampton, who have their own equality objectives |

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| | | Please select your answer in bold . Please provide detail here. | | |
| 9a | Could the policy or project have the potential to affect individuals or communities on the basis of race differently? | Y | N | The land disposal will not have an effect on an individual or group of the community on the basis of race. |
| 9b | What existing evidence (either presumed or otherwise) do you have for this? | Our latest data on Race in Winchester District is found here . | | |

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| 10a | Could the policy or project have the potential to affect individuals or communities on the basis of gender? | Y | N | The land disposal will not negatively affect an individual or group of the community on the basis of gender. |
| 10b | What existing evidence (either presumed or otherwise) do you have for this? | Our latest data on gender in Winchester District is found here . | | |
| 11a | <p>Could the policy or project have the potential to affect individuals or communities on the basis of disability differently in a negative way?</p> <p><i>(you may wish to consider:</i></p> <ul style="list-style-type: none"> • <i>Physical access</i> • <i>Format of information</i> • <i>Time of interview or consultation event</i> • <i>Personal assistance</i> • <i>Interpreter</i> • <i>Induction loop system</i> • <i>Independent living equipment</i> • <i>Content of interview)</i> | Y | N | Some members of the public rely on the parking in this area to visit adjacent public space and possibly to visit neighbouring properties where on street parking is limited and permit controlled. The land transaction has the potential to limit parking access at River Park and the open spaces. Some people with disabilities will be more reliant on vehicular access and therefore have a greater need for parking. |
| 11b | What existing evidence (either presumed or otherwise) do you have for this? | Our latest data on ability in Winchester District is found here | | |
| 12a | Could the policy or project have the potential to affect individuals or communities on the basis of sexual orientation? | Y | N | The land disposal will not have an effect on an individual or group of the community on the basis of sexual orientation. |
| 12b | What existing evidence (either presumed or otherwise) do you have for this? | We do not hold data based on sexual orientation. Our impact assessment has been based on the transaction being a land disposal. No part of this land is specifically dedicated to provide community facilities based on, or generally used by any group of people who might wish to accept services based on their sexual orientation. | | |
| 13a | Could the policy or project have the potential to affect individuals or group of community on the basis of age? | Y | N | This land proposal will have a positive impact on the young, providing an increased presence |

| | | | |
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| | | | <p>of a top University in Winchester. This would benefit the young by providing ‘a nationally and internationally recognised significant centre for art, design and creative industries education, research and innovation’. This will create education opportunity and employment opportunity.</p> <p>The land disposal includes continuation of management for the benefit of the public of the Skate park and the Bowls Club which will result in a neutral benefit and effect for the younger and older generation, due to the arrangements being at lease/landowner level and not directly impacting the club or users. The evidence base for the users is on the assessment below.</p> <p>The proposal from the University is aimed at all ages but will proportionately benefit younger people. This could bring wider benefits that affect young people such as jobs and diverse recreational and social opportunities.</p> <p>The land disposal will not have a negative effect on an individual or group of individuals of the community on the basis of age. The land disposal will enable the open space land to remain open for the elderly to enjoy. Parking spaces for blue badge holders will also remain through this land disposal.</p> |
| 13b | What existing evidence (either presumed or otherwise) do you have for this? | See below assessment. | |

| | | | | |
|-----|---|---|----------|---|
| 14a | Could the policy or project have the potential to affect individuals or communities on the basis of religious belief? | Y | N | The land disposal will not have an effect on an individual or group of the community on the basis of religious belief. |
| 14b | What existing evidence (either presumed or otherwise) do you have for this? | Our latest data on religious belief in Winchester District is found here | | |
| 15a | Could this policy or project have the potential to affect individuals on the basis of gender reassignment? | Y | N | The land disposal will not have an effect on an individual or group of the community on the basis of gender reassignment. |
| 15b | What existing evidence (either presumed or otherwise) do you have for this? | We do not hold data based on gender reassignment. Our impact assessment has been based on the transaction being a land disposal. No part of this land is specifically dedicated to provide community facilities based on, or generally used by any group of people who might consider themselves to be in this group. | | |
| 16a | Could this policy or project have the potential to affect individuals on the basis of marriage and civil partnership? | Y | N | The land disposal will not have an effect on any individual or group of the community on the basis of marriage and civil partnership. |
| 16b | What existing evidence (either presumed or otherwise) do you have for this? | Our latest data on marital status in Winchester District is found here | | |
| 17a | Could this policy or project have the potential to affect individuals on the basis of pregnancy and maternity? | Y | N | The land disposal will not have a negative effect on an individual or group of the community on the basis of pregnancy and maternity. The open green space will remain. |
| 17b | What existing evidence (either presumed or otherwise) do you have for this? | Our latest data on population statistics in Winchester District is found here – this can be used to access birth statistics | | |
| 18 | Could any negative impacts that you identified in questions 9a to 17b create the potential for the policy to discriminate against certain groups on the basis of protected characteristics? | Y | N | The project has been reviewed and none are identified. |
| 19 | Can this negative impact be justified on the grounds of promoting equality of opportunity for certain groups on the basis of protected characteristics? Please provide your | | | Race: n/a- as no negative impact identified |
| | | | | Gender: n/a- as no negative impact identified |
| | | | | Disability: Impact of reducing the available |

| | | | | |
|----|--|---|----------|--|
| | answer opposite against the relevant protected characteristic. | Y | N | <p>number of parking spaces identified – mitigated by retaining 77 spaces to ensure people who need to park cars near the Park and site can still do so.</p> <p>Sexual orientation: n/a- as no negative impact identified</p> <p>Age: Y – The bowls club are transferring with the intention of them remaining and potentially receiving improved services from their new owner. The Skate park is being protected from within the legal agreements to ensure the Council has a veto on its future.</p> <p>Gender reassignment: n/a- as no negative impact identified</p> <p>Pregnancy and maternity n/a- as no negative impact identified</p> <p>Marriage and civil partnership: n/a- as no negative impact identified</p> <p>Religious belief: n/a- as no negative impact identified</p> |
| 21 | How will you mitigate any potential discrimination that may be brought about by your policy or project that you have identified above? | Continuous review and ensuring that the implementation/ steering group includes PSED equality objectives in its terms of reference. Also requiring the university to adhere to its own equality objectives. | | |
| 22 | Do any negative impacts that you have identified above impact on your service plan? | Y | N | No |

| | |
|------------------------------|--|
| Signed by completing officer | |
|------------------------------|--|

Signed by lead officer

Dawn Adey

1. The purpose of the proposal or decision required

The Council owns a parcel of land located at River Park Leisure Centre site fronting Gordon Road. The leisure centre on this site was decommissioned upon the opening of the new Winchester Sport and Leisure Park in May 2021.

This report assesses the impact of the proposed disposal of land to the University of Southampton which would enable the university to bring forward their proposal for a transformational development to the Winchester School of Art campus at the land currently occupied by the now closed RPLC and associated parking area.

Impacts considered are:

The disposal of the land

2. EVIDENCE USED/CONSIDERED

The decision to close the building on this land was made historically and the impact on people of that closure would have been considered at that time. The scope of people impacted on the disposal of the land is therefore:

1. Users of the Skate park
2. Users of the Bowls club

3. Users of the car park
4. Members of the public who pass through the land

User insight:

Users of the skate park – the skate park is used by wide age group from 5-40 years. They are usually there at different times of the day / evening – younger children in the morning and then 11-40 year olds in the afternoon and evening. RoSPA reports nationally that the average age of skateboarders is between 13 and 14. 90% of them are male.

Users of the Bowls club – There are 280 members at Riverside Bowls Club. It is open 7 days a week from 10am – 6pm for practice and matches, with competitions taking place on weekends. The demographics of the club are mostly retired people, ages range from 50 – 85 years old. National articles on-line indicate that the number of users is decreasing, county level players are estimated to be in their 30's and that the sport was affected by covid as members could not use the clubs and therefore did not pay membership fees resulting in some clubs closing.

Users of the car park - Data is found in the Winchester Movement Strategy [data](#)

[set](#). We monitored the car park for evening use and received data that less than 10 cars were parked overnight on each night we assessed.

Members of the public who pass through the land – we do not collate this specific data but can use the district [population data](#) as a source.

3. CONSULTATION

We have met with skate park users and received resident feedback. They are keen to see the skate park protected by the Council.

We have met with the bowls club Chairman who understood the process of the land transaction. The club are keen to be consulted on any future steps which impact the club location/facilities once the transaction is completed.

We have held a public forum which was available to members of the public including those who pass through the land and people who park in the car park. Feedback was invited via an online Q&A and via telephone and email. Feedback has been around the new (proposed) use of the site and accessibility to the site.

The public forum was held on-line due to covid restrictions. We reached 191 attendees. To reach a non-online audience the Council liaised with the printed press and an article was printed in the

local press in the week commencing 1 November 2021.

Feedback from the public has been gathered through telephone, email and on-line forums as well as face to face directly to Members.

4. ASSESS LIKELY IMPACT

Skate Park users - The lease arrangements in place to protect the skate park will result in no change for the users. NEUTRAL IMPACT

Bowls Club – The lease arrangements for the Bowls Club will transfer to the University. This will result in no change for the users. NEUTRAL IMPACT

The change of number of car park spaces will impact the users of those spaces. This change is proposed in keeping with the Winchester Movement Strategy which has a full impact assessment. The Heads of Terms protects a number of car parking spaces for onsite parking to ensure those with protected characteristics can still visit the adjacent public open space. NEUTRAL IMPACT

The impact on the people who pass through the land - should accessibility to the land and any new buildings on it change as an outcome of the Universities proposal, they will address regulatory accessibility requirements at that time. NEUTRAL IMPACT on assessment on entering an agreement for lease.

5. WHAT ACTIONS CAN BE TAKEN TO MITIGATE ANY ADVERSE IMPACTS?

Car Parking spaces have been kept ensuring accessibility to the adjacent open space.

6. ACTIONS TO BE TAKEN

None

7. MONITORING ARRANGEMENTS

If the disposal is agreed – a Steering group will be set up.

The terms of reference for that group would include that equality monitoring and reporting are presented to the group for discussion.

8. ACTION PLANNING

No further actions.

9. PUBLISH THE EIA

EIA will be published with CAB3342

WINCHESTER CITY COUNCIL
SECTION 123(2A) LOCAL GOVERNMENT ACT 1972
NOTICE OF PROPOSED DISPOSAL OF OPEN SPACE LAND
Land known as the Skate Park and Riverside Indoor Bowling Club
at Gordon Road, Winchester and shown in the plan edged red

NOTICE IS HEREBY GIVEN under Section 123(2A) of the above-mentioned Act that Winchester City Council is proposing to enter into an agreement to grant a lease for a term of 150 years of the area of land described below, which is or may be open space, to the University of Southampton. The lease will contain terms requiring the University to continue the current use of the land unless an equivalent alternative facility is provided.

The area of land referred to above is shown for the purpose of identification edged red on a plan which is available online at: <https://www.winchester.gov.uk/public-notices-library>.

Any person who objects to the proposed leasehold disposal of the above-mentioned parcel of land should email or write to the Service Lead Legal, at Winchester City Council, City Offices, Colebrook Street, Winchester, Hampshire or CKnight@winchester.gov.uk by 4pm on Friday 4th February 2022.

*Catherine Knight, Service Lead Legal, Winchester City Council, City Offices,
Colebrook Street, Winchester, Hampshire, SO23 9LJ*

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CAB 3342 Appendix F – Open Space Site Plan

Site Address:- RIVER PARK LEISURE CENTRE - INDOOR BOWLS CLUB AND SKATE PARK



Winchester City Council
Estates Division

Scale:- 1:1,000 @ A4
Date:- JAN 2022
Ref:-

Map Ref:- 4933

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Objections by Friends of River Park

1. **This land is a Public Park**

- (i) The Recreation Ground, including the area of River Park Leisure Centre, the Indoor Bowling Club and the Skate Park, belongs to the residents of Winchester. The Council does not “occupy” the land but they are “merely custodians and trustees for the public”¹. However, in the decision made by Cabinet on 23rd November 2021 to dispose of the land, they purported to act as “landowner”, making no reference to the fact that they held the land on statutory trust for Winchester residents. The Council in the below referred 2019 report, in contrast, acknowledged that the Council hold the land (including the sports centre part of the site) on statutory trust for Winchester residents.
- (ii) The land was transferred in 1902, as confirmed by a 1902 conveyance, for the purpose of a Public Park, for public recreational use. For the sale to the University of Southampton to take place, the Council would be required first to appropriate the land. They would also have to apply to the Lands Chamber to break the covenant, under S84(1) Law of Property Act 1925. This is a very cumbersome, difficult application, where the Council would need to join in all the successors in title of the Wm Barrow Simonds land (who must amount to many hundreds). They would also have to show the covenant no longer has the fundamental purpose of protecting an amenity – which, of course, it does. The Council in their 2019 report, CAB3190², acknowledge that.

It should stay open to all members of the public for recreational purposes

2. **This area is designated “open space”**

- (i) The land, including the buildings, is protected by the Open Spaces Act 1906 and the Local Government Act 1972, as well as the covenant which was imposed with the

¹ *The Churchwardens and Overseers of Lambeth Parish v London County Council [1897] AC 625, Mayor of Liverpool v Assessment Committee of West Derby Union [1908] 2 KB 647; both cases applied in Burnell v Downham Market Urban District Council [1952] 2 QB 55*

² Extract attached

original transfer. The Council should not be permitted to seek to remove those protections by disposing of the land to a commercial entity such as the University of Southampton, which is run as a competitive, profit-making business.

- (ii) The statutory trust imposed upon the Council applies equally to buildings in the open space. Typically, they are occupied for purposes ancillary to the management of the open space and the provision of facilities to the public, which justifies any necessary limitations on access by the public³. The fact that the public might be necessarily excluded from portions of the land, or charged for entry, would be consistent with the duty and exercise of management by a local authority. Therefore, the provision of the Leisure Centre, the Indoor Bowls Club and the Skate Park would be consistent with the Council's duty to provide for recreation for the public and ancillary to the management of the open space⁴. The Council has also acknowledged that buildings form part of the open space by the notice the Council has so far served, which relates to the part of the site upon which the skate park and the Indoor Bowls Club are situated – the latter having considerably more restricted access than had the Leisure Centre site, which was open to all and not just the members and their guests.
- (iii) *Section 19 of the Local Government (Miscellaneous Provisions) Act 1976* confers power on a local authority to provide "recreational facilities". Those include, in particular, powers to provide—(a) indoor facilities consisting of sports centres, swimming pools, skating rinks, tennis, squash and badminton courts, bowling centres...and (d) premises for the use of clubs or societies having athletic, social or recreational objects...
- (iv) It follows that the redundant Leisure Centre is protected as open space under the *Open Spaces Act 1906*, just as is the Indoor Bowls Club and the Skate Park. There can, therefore, be no justification for excluding it from the requirement to advertise its proposed disposal as open space under S123(2A) Local Government Act 1972. The below referred 29th December 2021 letter from the Council also acknowledged that the Council needed to advertise the notice for the site as a whole and did not

³ *R (on the application of Muir) v London Borough of Wandsworth [2017] EWHC 1947 (Admin)*

⁴ *Burnell (supra)*

say that the Council only needed to advertise the notice for the area of the Indoor Bowls Club and Skate Park.

- (v) The Council, as trustee, cannot lawfully make a profit from land held under the OSA 1906; any amounts raised by way of capital receipt from the sale by lease of the site could only be used for the purpose of improving or maintaining the land⁵. However, in the Council report CAB3324 at paragraph 3.3, it is stated: “The council can use capital receipts to fund capital expenditure either for future projects or to reduce the borrowing requirement for previous unfinanced capital projects. However, use of the receipt for this purpose has a positive revenue benefit for the council.” This would clearly indicate an unlawful purpose behind the proposed sale/lease.

The land should remain open space, freely accessible to the public

3. The Council has provided no opportunity at all for public consultation

- (i) There has been no consultation made by the Council at any time, particularly about the selling of the land at below market value or the waiving of the rights of residents in relation to land ownership. There was no opportunity for the public to have a say in these or any other plans for the future of the site. Not only were we unaware of the proposal before an announcement over an invitation-only Zoom call, which required attendance by registration, on 1st November 2021, but the various individuals and organisations who might have been expected to have been consulted – like the University of Winchester, the Theatre Royal or the Hampshire & Isle of Wight Wildlife Trust, or local groups like Friends of Hyde Abbey Garden and Hyde900, as well as residents of the city – were completely taken by surprise. Earlier opportunities for public consultation, in 2018 and in 2020, were specifically prohibited by the Council. The public must be allowed time to air their views and to explore, in consultation, alternative, sustainable, viable uses for the land in question.
- (ii) Consultation should have taken place before the Council’s proposals were formulated and had become a firm plan, following apparently lengthy negotiations

⁵ *Muir v LBW (supra) para 75*

conducted in private, with attendant draft Heads of Terms for the sale/lease and officers' recommendations to Cabinet that they should agree the sale/lease upon those Heads of Terms. For the Council to say that public consultation will take place once the deal has been struck is extraordinary: it will be too late. The Council should also not have agreed, as they did in the Cabinet meeting on 23rd November 2021, to enter into an agreement with Southampton for the grant of a 150-year lease of the whole site (which included the Leisure Centre area, Skate Park area, Indoor Bowls Club area and a part of the car park). That decision was only stood down at the 25th January 2022 Cabinet meeting – still with no valid and proper consultation having taken place (see paragraph (4) below).

The public must be properly consulted about the future use(s) of this site

4. The Council's notice of a disposal of open space land is defective

- (i) Not only has there been inadequate consultation, as in paragraph (3) above, but the notice for the very short period of consultation allowed is defective. A letter from the Council dated 29th December 2021, conceding that they had acted unlawfully by failing to advertise the disposal of the River Park Leisure Centre site before the Cabinet decision on 23rd November, states that the Council "can confirm that the intended disposal will be advertised in accordance with section 123(2A) of the 1972 Act. The Decision will be reconsidered by Cabinet at the earliest opportunity, in the light of any responses received to the advertisement".
- (ii) The Council's proposal as set out in the report to Cabinet (CAB3324) was to grant a five-year lease, followed by a 150-year lease, conditional on planning consent, for the entire River Park Leisure Centre site and part of the public car park. The notice that has been published on the Council's website and in the Hampshire Chronicle of 5th/6th and 12th/13th January 2022 announces that the Council proposes to enter into an agreement to grant a lease for a term of 150 years over a significantly smaller area that they refer to as the Skate Park and the Indoor Bowling Club. It doesn't refer to the whole site, nor does it correlate to the proposals the Council set out in CAB3324. How are respondents to the notice supposed to word their objections: to the whole site or just the Indoor Bowls Club and Skate Park?

- (iii) As is pointed out in paragraph 2 above, the whole site is designated as open space. By failing to include the area of the redundant Leisure Centre, as well as the car park included in the Council's plan appended to CAB3324, the notice does not meet the requirements of S123(2A) Local Government Act 1972 and it is, therefore, defective.
- (iv) The notice was published in advance of the Cabinet meeting on 25th January, when the decision of 23rd November was rescinded. Therefore, the notice was published while the decision to dispose of the entire site still stood. However, CAB3336 (ie the report at the 25th January 2022 cabinet meeting) recommended that Cabinet "approve the relevant advertisements" retrospectively. There is no rationale given in that report as to why those advertisements were only in relation to part of the site. There has been no variation to the 150-year lease Heads of Terms with Southampton University which relate to the whole of the site (and so including the Leisure Centre part of the site and an adjoining car park).

For public consultation purposes, and in terms of the process, the notice is defective

5. The City has a shortfall of "open space"

- (i) Winchester's Local Plan Part 1 (Joint Core Strategy) identified a shortfall of land available for open space in the city. **Policy WT1**⁶ provided for "additional open space and recreational provision, including:
- opportunities to address any under-provision of open space, to be secured through new allocations and in conjunction with development.
 - retention of existing open space and recreation provision and not releasing this for alternative purposes, given the amount of the existing shortfall."
- (ii) A Council report⁷ identified a shortfall in the Town of Parks & Recreation Grounds by 12.82 hectares against standard.
- (iii) The City would contravene its own Local Plan policies by handing over to a commercial concern, the University of Southampton, this open space, where people can play, exercise and enjoy their leisure time. [NB Local Plan Part 2 Policies

⁶ LPP1 para 4.29

⁷ WCC Open Space Assessment 2013

DM1, DM5, CP7 and CP18, and the Open Space Strategy background document, all provide for the protection of the City's public open space for recreation⁸.]

The land must be kept as a public park or recreation area

6. Green environment in the city

Policy WT1 also provided for “retention of existing and provision of new green infrastructure to ensure that the Town retains its well-treed character, attractive green setting, its well-defined urban edge, and access to open space and adjoining countryside.” River Park is an urban park providing a play, recreation, sports and leisure environment for the City of Winchester. There are tennis courts, a rugby and a football pitch, cricket pitches, skate park, children's play area, canoeing, crown green and indoor bowls, wild river swimming, cycle paths, a tranquil garden area in Hyde Abbey Garden and gentle walks. It is adjacent to the Winnall Nature Reserve which is, itself, part of the South Downs National Park. Through the park and around the River Park site flows the River Itchen, the navigation canal and its tributaries. This is one of the UK's unique chalk stream rivers and is a Special Area of Conservation and a Site of Special Scientific Interest. It is in danger from pollution.

Our green environment needs protecting from inappropriate development

7. Effect on tennis courts, all-weather 3G pitch and cricket pitches of large buildings

The River Park site lies to the south, and is immediately adjacent to, the artificial (and much-used) pitch and the public tennis courts – the only public tennis courts available in the city. Just beyond them is the main cricket pitch. Any overly large building(s) erected on the River Park site, either replacing the Leisure Centre or the Indoor Bowling Club and Skatepark, or all of these facilities, could have a deleterious effect, with long shadows

⁸ WCC Open Space Strategy (para 74): Existing open space, sports and recreational buildings and land, including playing fields should not be built on unless:

- An assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- The loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- The development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.

cast over the public ground next to them including the popular public tennis courts and football training areas, as well as the cricket pitch. If the new building(s) were to be part of a student campus, this would undoubtedly adversely affect the public recreational facilities and their accessibility to Winchester residents.

There can be no insensitive, large-scale building or over-development of the site

8. Flood Risk

The Council last commissioned a Flood Risk Assessment of the River Park site in 2013⁹. The land mostly lies in a zone (3A) where floods are highly probable, and it is upstream of the city and the Cathedral. In the Report, it is said that (para 5.0.1) ‘a new design that increased the existing building footprint or the impermeable area within the floodplain would not be appropriate in this location’; also, (para 5.0.2) ‘replacing the existing leisure centre buildings with open space might have a beneficial effect on downstream flood risk’. The Council continues to acknowledge, in response to the petition for a new Lido in this area, that the site is at a high risk of flooding.

The fewer buildings, or smaller facilities, on this site the better: even returning it to parkland would benefit the city

9. Winchester is a small city

The population of Winchester city is estimated to be 48,818¹⁰. The numbers of students at the University of Winchester are more, when compared to residents, than in Oxford or Cambridge. Can the city sustain a second major University campus? For instance, accommodation for students is already having an unsustainable effect on housing in the city, rendering family homes unavailable and/or unaffordable by turning many into HMOs. Developers have seized the opportunity to erect many designated student apartment blocks. There is a fear that Winchester’s historically well-mixed character is already being undermined by the proliferation of student accommodation, creating a saturation level and a distinct imbalance. The Council proposals here would be for a

⁹ River Park Leisure Centre Flood Risk Design Note (Ramboll) January 2014

¹⁰ Office for National Statistics estimate for June 2020

large campus development with significant associated housing need, which would make this imbalance worse. The report itself acknowledges the problem¹¹.

Winchester needs an urgent review of the proportionality between numbers of residents and of students

10. The Proposals in detail

(i) The proposals are set out in a report to Cabinet (CAB3324) (ie for the 23rd November 2021 Cabinet meeting). It is said in that report that the University of Southampton wishes to acquire the River Park Leisure Centre site. What is proposed in that report is an **initial ‘lock-out’ 5-year lease**, for the University to progress options for the extension of the neighbouring Winchester School of Art campus. No deposit would be payable.

- **There has been no procurement process for this disposal.**
- **There is to be no initial payment to the Council for the site, which could lay dormant for five years – following which the University might not decide to go ahead with any development plans – and in the meantime the Council has to pay for the demolition of the Leisure Centre (estimated at £2m) as well as maintenance of the remaining buildings (estimated at £80,000 per annum).**
- **In CAB3324 it states that the Council will help facilitate the potential relocation of the Bowling Club and the popular Skate Park. There is no mention of the costs concerned, who would pay for this and how it would be achieved.**
- **The statutory protection currently enjoyed by this open space site will be lost.**

(ii) **The five-year lease , as confirmed by CAB3324, would be followed by a 150-year lease (expressed as a sale)** to the University of Southampton, assuming planning consent were to be granted for what is called ‘the campus scheme’, and upon the payment of an unquantified capital sum for the acquisition of the site. There is no mention of how the value is to be assessed and on what basis – for instance, whether it would be discounted for the impact of being on a flood plain, the

¹¹ The report to Cabinet (CAB3324) says, at para 14.5: “As the proposals by the university are likely to increase the number of students, and student accommodation is not going to be put forward on this site, it will be important that any scheme for the redevelopment of the RPLC land comes forward with a strategy designed to address the demand for additional student housing in the city”.

constraints of complying with a covenant and onerous planning restrictions, its lack of accessibility by road or public transport, etc. Over the 150-year lease period there would only be a 'peppercorn' rent.

- **There is no fixed financial benefit to the taxpayer of this sale.**
- The permitted use, as confirmed by CAB3324, is to be restricted throughout the term so that, 'for the first 35 years, the property shall be put to principal uses only of or in connection with tertiary education including ancillary university purposes only': **the public will not have access to the site at all for 35 years following the sale.**
- There is just one mention in the Heads of Terms of an 'aspiration' to provide publicly accessible performance space but no fixed intention as to such space, or as to the extent or scope of it, and there is no such condition attached to the sale: **there is no definite benefit to the public of this sale.**
- The Buyer will have 'virtual freehold basis', no restriction on selling the site on to another, no obligation to repair (including during the initial 5-year period) and 'absolute discretion over the campus scheme': **the Council will effectively lose control of the site once it is sold.**

11. **Conclusion**

The Friends of River Park strenuously object to the Council's proposals to lease any part of the River Park Leisure Centre site to the University of Southampton, or to any other commercial entity. The site forms part of the parcel of land, including the Recreation Ground, Hyde Abbey Garden and Hyde Gate and Chamber, conveyed in 1902 by William Barrow Simonds to the District Council, Aldermen and Citizens of the city of Winchester for use as a Public Park, for the benefit of the Citizens of the City and for recreational and public purposes only; the only buildings permitted to be built (and as confirmed in that conveyance) being the lodge for the park keeper, and recreation/scientific buildings/galleries for the public/recreation. The Citizens of Winchester should decide what use or uses to which the site may be put, following the de-commissioning of the Leisure Centre building (including, for instance, the possibility of returning it to use as parkland). The Council's intention to dispose of the site to the University of

Southampton breaches the covenant in the 1902 conveyance (ie public park/recreation), and breaches the open space provisions and statutory trust provisions. There was none of the required consultation (and advertising) before the 23rd November 2021 Cabinet decision to grant an Agreement for a 150-year lease to Southampton University. The consultation (which started prior to the Council decision on 25 January 2022 to rescind the 23rd November 2021 cabinet decision) is incomplete and defective. This includes the fact that it does not relate to the whole of the site which is all equally open space and held on statutory trust for the Winchester residents.

On behalf of Friends of River Park

4th February 2022

3 LEGAL AND PROCUREMENT IMPLICATIONS

3.1 Consideration of future land uses for both the building and surrounding site at RPLC site are subject to historic restrictions on the Land Registry title, which relate back to the original site purchase. Subsequently the land is currently held on a statutory trust as a public park and recreation ground for the City, and subject to a restrictive covenant.

3.2 The implications of the restrictive legal covenant and holding the land as a statutory trust on the site means that:

- a) The building and the land may only be currently used for recreational and open space, and associated uses;
- b) Residential use is not permitted without discharge of the restrictive covenant by the Lands Tribunal, even following appropriation;
- c) Additional options for the use of the land and buildings become available following a valid appropriation of the land by the Council, being uses which are under the Council responsibilities;
- d) The Council could sell or grant a lease of the site provided it is first appropriated and the procedures in relation to disposal of open space under s123 Local Government Act 1972 are followed and best consideration is obtained or can be dispensed with. Any proposed development or disposal would need to respect or manage subsisting leases and easements.

3.3 Appropriation of the whole or part of the site from open space to planning purposes is a statutory process which, in this case, requires public consultation, evidence that the land no longer required for the purpose to which it is held, consideration of any comments received and not able to be pursued if it would lead to a breach of the restrictive covenant.

3.4 The restrictive covenant may be modified or discharged pursuant to section 84 of the Law of Property Act 1925 which requires an application to the Lands Tribunal to show that the restriction is obsolete and would not adversely affect those with the benefit of it, or that the beneficiaries agree to its modification or discharge.

3.5 Further legal input is recommended as the Council develops ideas to pursue future land use options.

The Queen on the application of Alexander Keay Muir v Wandsworth Borough Council v Smart Pre-Schools Limited



Positive/Neutral Judicial Consideration

Court

Queen's Bench Division (Administrative Court)

Judgment Date

28 July 2017

Case No: CO/2956/2016

High Court of Justice Queen's Bench Division Planning Court

[2017] EWHC 1947 (Admin), 2017 WL 03174584

Before : Mrs Justice Lang DBE

Date: 28 July 2017

Hearing dates: 23 May and 18 July 2017

Representation

David Matthias QC (instructed under the Direct Access Scheme) for the Claimant

Ranjit Bhose QC (instructed by Sharpe Pritchard LLP) for the Defendant

The Interested Party did not appear and was not represented

Approved Judgment

Mrs Justice Lang:

1. The Claimant applies for judicial review of the Defendant's decision to grant a long lease of premises known as Neal's Farm Lodge and Cottage ("the premises"), situated on Wandsworth Common ("the Common"), in the London Borough of Wandsworth, to the Interested Party ("IP").
2. The IP is a limited company which intends to operate a private nursery at the premises for up to 62 pre-school children, aged 2 to 5 years.
3. The Defendant ("the Council") is the local authority which, pursuant to statute, holds the freehold of the land on which the Common is situated.
4. I granted permission to apply for judicial review at an oral renewal hearing on 18 October 2016. Holgate J. gave the Claimant permission to rely on an additional ground for judicial review on 25 April 2017.

Facts

5. Neal's Farm is situated in the north western part of the Common, near Dorlcote Road, though there is no direct vehicle access. It comprises Neal's Farm Lodge and Neal's Cottage which are set in small front and rear gardens. For many years, it was used partly as a café for the enjoyment of those using the Common, and also to provide residential accommodation for Common groundsmen, occupied under residential service tenancies. I consider its origin and early history later in my judgment.

6. In 2013/2014, the Council terminated the residential service tenancies, leaving Neal's Farm unoccupied, apart from the ground floor of the Lodge which continued to be occupied by the Skylark Café. In 2014, the Council rejected an offer from the operator of the café to lease the remainder of Neal's Farm as "uncommercial" and a plan to use it as offices for the Leisure and Culture Staff Mutual was abandoned because of the conversion costs.

7. In January 2015, the Council decided to place the premises (comprising the upper floor of the Lodge, the entirety of the Cottage, an outbuilding and the rear garden, totalling 1,905 sq.ft) on the open market to invite expressions of interest for a 10 or 15 year lease excluded from the [Landlord and Tenant Act 1954](#), "subject to the successful applicant carrying out all works and obtaining requisite consents to bring the properties back into commercial use" (email from Mr Peter Tiernan, Principal Valuer, to estate agents, dated 28 January 2015). The email stated any lease could only be granted to a limited company.

8. It is apparent from the email evidence that Mr Tiernan was aware that the premises were subject to significant restrictions on use under the schedule to the [Ministry of Housing and Local Government Provisional Order Confirmation \(Greater London Parks and Open Spaces\) Act 1967](#) ("the Long Act") because they were situated on the Common. The estate agent from Lambert Smith Hampton complained that the advice from the Council's Planning Department "seems to limit all use other than in connection with uses associated with the common, this rules out virtually all commercial uses". Mr Tiernan received advice from the Borough Solicitor to the effect that use of the premises as a children's nursery was a recreational or educational use consistent with the Long Act.

9. It is also apparent from the email evidence that Mr Tiernan was aware that the grant of a lease would amount to a disposal of open space land which would require a statutory disposal notice in accordance with [section 123\(2A\) of the Local Government Act 1972](#) ("LGA 1972"), and any objections would have to be considered by the Community Services Overview and Scrutiny Committee.

10. Advertisements were placed in a local newspaper on 17 April and 15 May 2015. The Council sought expressions of interest specifying that "any use must provide a recreational or educational facility servicing the common". Ten expressions of interest were received. Nine were for proposed nursery use.

11. Lambert Smith Hampton sent details of the bids to Mr Tiernan, recommending that the lease be granted to the IP, who was the highest bidder. On 7 July 2015, Mr Tiernan passed this information on in an updating email to Councillor Cook (copied to Mr Andrew Algar, Assistant Director (Property Services) and Mr Tunde Ogbe, Head of Valuation and Asset Management) informing them of Lambert Smith Hampton's recommendation and reminding them that "the use of facilities on common land must be consistent with the 1967 'Long Act'". On 8 July 2015, Mr Algar replied to an email from Mr Ogbe confirming that he could go ahead and make a conditional offer to the IP, before hearing back from Councillor Cook.

12. On 15 July 2015 Lambert Smith Hampton sent a formal recommendation to Mr Tiernan advising that the IP was "an established nursery & nanny provider operating out of Wimbledon Hill" and "[t]he property is ideally placed for the nursery use proposed and therefore this has provided a much higher rent per sq. ft. than any recent D1 comparable evidence in the surrounding area" and, by reference to the schedule of bids attached, "best consideration has been achieved".

13. The Lambert Smith Hampton recommendation was signed by Mr Tiernan, and dated 16 July 2015, in his capacity as Borough Valuer, exercising delegated powers. He annotated the document by hand adding that the delegated power was "1.E(l)" and that "Letting subject to statutory consultation – s.123(2A) LGA 1972 + planning". Someone wrote on the top of the document "Commercially sensitive. Not to be released". The Defendant's evidence was that this document represented the Council's decision to lease the premises to the IP.

14. Mr Tiernan sent the approved recommendation by email to Lambert Smith Hampton stating "Please find approved Recommendation Report for your review and action". It was copied to Mr Ogbe.

15. The tenth expression of interest was from the Claimant who proposed an educational and recreational facility for use by local maintained schools. The Claimant's expression of interest was ruled out on the grounds that it did not provide sufficiently detailed information. The Claimant was notified of this decision by letter dated 9 July 2015. The Claimant complained to Councillor McDermott, who raised the matter with Mr Algar, and then responded to the Claimant. Eventually Mr Ogbe, Head of Valuation and Asset Management, instructed Lambert Smith Hampton to "press ahead with the letting" on 21 July 2015.

16. On 3 and 10 September 2015, the Council published notices in the local newspaper pursuant to the Long Act stating that it intended to grant a 15 year lease of the premises which it identified as "open space" and inviting objections, if any. No objections were received.

17. On 6 September 2015 the Claimant made a [Freedom of Information Act 2000](#) ("FOIA") request which the Council responded to on 8 October 2015. The Claimant subsequently made further FOIA requests.

18. On 9 October 2015, the IP applied for planning permission for a change of use from residential (Use Class C3) to nursery/pre-school, classified as a non-residential institution under Use Class D1, as well as some minor building alterations. The proposed nursery would cater for 62 children aged 2 to 5, from 7.30 am to 6.30 pm on weekdays. About 15 staff would be employed by the nursery.

19. The Claimant asked for a meeting with the Council in November 2015, concerning irregularities in the bidding process, which the Council declined.

20. On 10 January 2016, the Claimant emailed the Council's Borough Solicitor requesting that the IP's planning application be reviewed as the change of use proposed – childcare, not education – was not consistent with the provisions of the Long Act.

21. On 1 February 2016, the Assistant Borough Solicitor replied stating that the proposed nursery use for the premises fell within the scope of [Article 7\(1\)\(a\)\(v\) of the Schedule](#) to the Long Act ("indoor facilities for any form of recreation whatsoever"). She added:

"Whilst it might be argued that part of the work of a nursery is education, it is predominantly recreational; nurseries serve very young children and whatever learning a nursery provides is learned through play – as such this is a recreational use. The legislation does not require uses of facilities to be limited to non-profit organisations."

22. On 16 February 2016 the planning officer's report was published. The report recommended that the application be approved subject to conditions. The report acknowledged that the site was "controlled" by the Long Act but asserted that "[t]his legislation and the processes to be followed under it, is not material to the determination of this application in the Council's role as local planning authority. Any reference to it is only provided for information purposes."

23. There were numerous objections to the application from local residents, the Wandsworth Society and the Wandsworth Common Management Advisory Committee.

24. At the hearing of the Planning Applications Committee on 24 February 2016, the Borough Solicitor advised the Committee that the restrictions in the Long Act were not a planning consideration and the application for planning permission had to be considered on its merits. Planning permission was granted as follows:

"Change of use from residential (C3) to nursery and preschool (Class D1) catering for up to 62 children (0-5 years old)...."

25. The conditions attached to the grant of planning permission included:

- i) Condition 2: the number of children enrolled at the nursery shall not exceed 62.
- ii) Condition 4: the premises shall not be open to customers other than between the hours of 0800 and 1800, excluding weekends and bank holidays, and at no other times.
- iii) Condition 7: the premises shall be used for a nursery/preschool and for no other purpose (including any other purpose in Class D1....).

26. On 5 April 2016, an objector filed a claim for judicial review of the grant of planning permission. That claim was eventually dismissed on 13 June 2016.

27. The Claimant filed this claim for judicial review on 24 May 2016. The Council has decided not to grant the lease to the IP whilst the challenge to the lawfulness of its decision to let the premises is ongoing.

28. The draft lease is for a term of fifteen years. The Council will insert clauses to reflect the planning conditions set out above, and to limit use by reference to the Long Act. It will also require the IP to accept local authority funded children who otherwise meet its admission criteria.

History of Neal's Farm and regulation of the Common

29. The Common was referred to in the Domesday Book as the common land of the Manor of Battersea and Wandsworth. It was referred to on Rocque's Map of 1741 as Wandsworth Common. Although owned by the lord of the manor (Earl Spencer),

local land owners had ancient rights of common over the Common, typically to graze animals and gather wood etc. The rights of common were registered under the [Commons Registration Act 1965](#) .

30. According to the ' *Survey of London* ', Volume 49 Battersea, in the 1820's the Common comprised about 400 acres, over twice its current size. In the 19th century, the freeholder (Earl Spencer) permitted encroachments on the Common, for road and rail construction, and for buildings for public or charitable purposes, such as Wandsworth Prison (10 acres, 1847), St James Industrial Schools (20 acres, 1847) and the Royal Victoria Patriotic Asylum ("the Asylum") for the maintenance and education of orphans (55 acres, 1857). From perusal of historic maps, and from the account given in the *Survey* , it appears that the site on which Neal's Farm Lodge and Cottage are now situated was included within the 55 acres sold to the Asylum.

31. Pursuant to the Wandsworth Common Act 1871 ("the 1871 Act"), the freehold interest in the Common which was owned by the local landowner, Earl Spencer, was transferred to "a body of Conservators" who were tasked with the duty to maintain the Common.

32. By section 33 of the 1871 Act:

"The Conservators shall at all times keep the Common open uninclosed and unbuilt on except as regards such parts thereof as are at the passing of this Act inclosed or built on and except as otherwise in this Act or in the Agreement Scheduled thereto expressed and shall by all lawful means prevent resist and abate all encroachments and attempted encroachments on the Common and protect the Common and preserve it as an open space and resist all proceedings tending to the inclosure or appropriation for any purpose of any part thereof."

33. By section 34 of the 1871 Act:

"It shall not be lawful for the Conservators except as in this Act or the Agreement Scheduled thereto expressed to sell lease grant or in any manner dispose of any part of the Common."

34. Over time, the freehold of the Common was transferred, pursuant to statutory powers:

- i) in 1887, to the Metropolitan Board of Works;
- ii) in 1898, to the London County Council ("LCC");
- iii) in 1965, to the Greater London Council;
- iv) on 1 April 1971, to Wandsworth Borough Council, pursuant to the [London Authorities \(Parks and Open Spaces\) Order 1971](#) .

35. It is common ground between the parties that, upon each of these transfers, the new freeholder was vested with the duties and powers originally conferred upon the Conservators by the 1871 Act.

36. The 'Plan of the Common referred to in Act of 1871' shows that the Neal's Farm site and the buildings thereon were outside the boundary of the Common at that time (having been sold to the Asylum), and so they were not subject to the 1871 Act when first enacted. The Asylum and its 'Market Gardens' (which were on the site of Neal's Farm) were marked on the Plan, adjacent to the Common.

37. The *Survey* sheds some light on the history of Neal's Farm, at p.252:

"Chief among the reasons for the conservators' eventual demise was the development of the neighbouring 'between the commons' area east of Bolingbroke Grove and the break-up of the five houses that formerly edged the common there. With an influx of new residents faced with steeply rising rates, even the modest amount devoted to the common was a bone of contention. The conservators themselves appeared aloof and increasingly ineffectual. Matters came to a head over the former farm attached to the Patriotic Asylum. In 1885 this and twenty acres of surrounding ground were let on lease to George Neal who laid out a roadway to it from Trinity Road. The Wandsworth Common Protection Association – seemingly a disaffected rump of the former Preservation Society – claimed that if the land was no longer required for the asylum's purposes, it should revert to the common, and blamed the conservators for failing to stop Neal.

A deputation of ratepayers from Battersea and Wandsworth petitioned the MBW [Metropolitan Board of Works] to take over control and management of the common. The conservators agreed, and in 1887 the common passed to the care of the Board." [Footnotes excluded]

38. According to a document produced by the Wandsworth Common Protection Association, dated 1887, the farm and twenty acres of land had been used as a market garden for the Asylum, and it was intended that the new tenant would continue that use. In 1886, the Royal Commissioners leased 19.5 acres of this land for a term of 21 years at a yearly rental of £150 to Mr Neal.

39. The 1896 Ordnance Survey map shows buildings on the site of Neal's Farm in the same location as the current Lodge and Cottage, called "The Farm".

40. The London County Council map of the Common, dated 1904, shows the Asylum, and it also shows two fields referred to as Neal's Farm with buildings to the south east. The footprint of the buildings on this map is consistent with the current day Neal's Farm Lodge and Cottage.

41. The *Survey* describes how in 1913 Neal's Farm once again became part of the Common:

"In 1911 Neal's Farm was put up for sale. The LCC Parks Department was keen to buy the land and take it back into the common to provide much-needed playing fields. In 1913 the Council took possession of the 'Wandsworth Common extension' and drew up plans for laying out the ground, including forming a bowling green, and adapting the existing buildings for use as dressing rooms, refreshment rooms, tenements for the staff, conveniences and a bothy. The work was postponed during the First World War, when the ground was used for staff accommodation for the third London General Hospital, which had taken over the Royal Victoria Patriotic Asylum." [Footnotes excluded]

42. In 1913, London County Council purchased Neal's Farm and surrounding land, amounting to just over 20 acres, from the Royal Patriotic Fund Corporation. It became the 'Wandsworth Common extension' but it was not open to the public until 1924 because the land was used as a hospital camp during World War 1.

43. The conveyance referred to "...building situate in the south east corner known as the 'Farm'". There was an entry for 'The Farm' on the accompanying plan, which was consistent with the location and footprint of the current buildings at Neal's Farm. The conveyance was:

"To hold unto and to the use of the Council and their assigns in fee simple for the purposes of the [Open Spaces Act 1906](#) subject to the provisions for exchange of lands contained in the London County Council (General Powers) Act 1905 and to be at all times hereafter used as an open space or public walk or pleasure grounds as defined by the Act of 1906 and for no other purpose whatsoever and to be at all times subject to the provisions of the said Act of 1906."

44. The Land Register includes a restriction on any registration made other than in accordance with the [Open Spaces Act 1906](#) ("OSA 1906") or some other Act, except under an order of the Registrar.

45. Section 39 of the 1871 Act provided that the Conservators may from time to time purchase by agreement any land having been part of the Common and any such land when vested in the Conservators shall be deemed part of the Common for the purposes of that Act. It was common ground that the 20 acres of land purchased in 1913 by the LCC was thereby held under the 1871 Act, together with the rest of the Common.

46. It has not been possible to discover the date at which the current buildings at Neal's Farm were constructed. They were described as "Edwardian" in the Council's Planning Officer's report, a description which was probably based on their architectural style, rather than the actual date of construction, which is unknown. The early part of the twentieth century seems to be the likely date, judging from the footprint on the ordnance survey maps and the architectural style.

47. [Section 10 of the OSA 1906](#) provides that:

"A local authority who have acquired any estate or interest in or control over any open space or burial ground under this Act shall, subject to any conditions under which the estate, interest, or control was so acquired —

(a) hold and administer the open space or burial ground in trust to allow, and with a view to, the enjoyment thereof by the public as an open space within the meaning of this Act and under proper control and regulation and for no other purpose:...."

48. [Section 123\(1\) LGA 1972](#) gives a principal council power to dispose of land held by them in any manner they wish. Subsections (2A) and (2B) provide:

"(2A) A principal council may not dispose under subsection (1) above of any land consisting of forming part of an open space unless before disposing of the land they cause notice of their intention to do so, specifying the land in question, to be advertised in two consecutive weeks in a newspaper circulating in the area in which the land is situated and consider any objections to the proposed disposal which may be made to them.

(2B) Where by virtue of subsection (2A) above a council dispose of land which is held —

(a) for the purpose of [section 164 of the Public Health Act 1875](#) (pleasure grounds); or

(b) in accordance with [section 10 of the Open Spaces Act 1906](#) (duty of local authority to maintain open spaces and burial grounds),

the land shall by virtue of the disposal be freed from any trust arising solely by virtue of its being land held in trust for enjoyment by the public in accordance with the said [section 164](#) or, as the case may be, the said [section 10](#) .]"

49. Section 87(3) of the Local Government Act 1963 ("LGA 1963") gave the Minister power to amend, revoke, repeal or extend any Greater London statutory provision by order, for the purpose of securing uniformity. It provided:

"(3) For the purpose of securing uniformity in the law applicable with respect to any matter in different parts of the relevant area, or in the relevant area or any part thereof and other parts of England and Wales, any appropriate Minister may, after consultation with such of the appropriate councils as appear to the Minister to be interested, by provisional order made after 1st April 1965 amend, repeal or revoke any Greater London statutory provision and extend it, with or without modifications, to a part of the relevant area to which it did not previously extend; and any such order may include such incidental, consequential, transitional or supplementary provision as may appear to the Minister to be necessary or proper for the purposes of the order or in consequence of any provisions thereof."

50. [Article 32](#) and [Schedule 5 to the London Authorities \(Property Etc.\) Order 1964](#) ("the 1964 Order"), made under the LGA 1963 stipulated that the Common was to be held for the purposes of the [OSA 1906](#) .

51. The [Local Law \(Greater London Council and Inner London Boroughs\) Order 1965](#) , made under the LGA 1963 , repealed much of the 1871 Act which had become redundant upon transfer of the Common from the original Conservators to a succession of public bodies. However, certain sections that were fundamental to the protection and preservation of the Common, regardless of the body in which ownership of the Common was vested from time to time, were not repealed and remain in force today (sections 1 , 33 to 37 , 44 and 71).

52. On an unknown date between 1965 and 1967, following consultation with the London local authorities, the Minister of Housing and Local Government made the Greater London Provisional Order For Securing Uniformity In The Law Applicable With Respect To Parks And Open Space, pursuant to section 87(3) LGA 1963 .

53. The [Ministry of Housing and Local Government Provisional Order Confirmation \(Greater London Parks and Open Spaces\) Act 1967](#) ("the Long Act") confirmed the terms of the Greater London Provisional Order, enacting it as the Schedule to the Long Act. [Article 1](#) of the Order provides that it may be cited as the [Greater London Parks and Open Spaces Order 1967](#) ("the 1967 Order").

54. The term "open space" is defined in [Article 6](#) of the 1967 Order to include:

"...any public park, heath, common, recreation ground, pleasure ground, garden, walk, ornamental enclosure or disused burial ground under the control and management of a local authority."

55. [Article 7](#) of the 1967 Order empowers local authorities to provide facilities for public recreation in any open space in Greater London. It provides as follows:

"7 Facilities for public recreation

(1) A local authority may in any open space -

(a) provide and maintain—

(i) swimming baths and bathing places whether open air or indoor;

(ii) golf courses and grounds, tracks, lawns, courts greens and such other open air facilities as the local authority think fit for any form of recreation whatsoever (being facilities which the local authority are not otherwise specifically authorised to provide under this or any other enactment);

(iii) gymnasia;

(iv) rifle ranges;

(v) indoor facilities for any form of recreation whatsoever;

(vi) centres and other facilities (whether indoor or open air) for the use of clubs, societies or organisations whose objects or activities are wholly or mainly of a recreational, social or educational character;

(b) provide amusement fairs and entertainments including bands of music, concerts, dramatic performances, cinematograph exhibitions and pageants;

(bb) without prejudice to the generality of the powers in the last foregoing sub-paragraph, provide exhibitions and trade fairs for the purpose of promoting education, the conservation of the environment, recreation, industry, commerce, crafts or the arts;

(c) provide and maintain in time of frost facilities for skating and flood any part of the open space in order to provide ice for skating;

(d) provide meals and refreshments of all kinds to sell to the public;

(e) provide and maintain swings, platforms, screens, chairs, seats, lockers, towels, costumes and any apparatus, appliances, equipment or conveniences necessary or desirable for persons resorting to the open space;

(f) erect and maintain for or in connection with any purpose relating to the open space such buildings or structures as they consider necessary or desirable including (without prejudice to the generality of this paragraph) buildings for the accommodation of keepers and other persons employed in connection with the open space; and

(g) set apart or enclose in connection with any of the matters referred to in this article any part of the open space and preclude any person from entering that part so set apart or enclosed other than a person to whom access is permitted by the local authority or (where the right of so setting apart or enclosing is granted to any person by the local authority under the powers of this Part of this order) by such person;"

56. [Article 8](#) of the 1967 Order empowers local authorities to grant licences to third parties to provide facilities for public recreation and to let land and buildings on open space for public recreation. It provides as follows:

"8 Licences to provide facilities and letting of land and buildings for public recreation

(1) A local authority may, subject to such terms and conditions as to payment or otherwise as they may consider desirable, grant to any person the right of exercising any of the powers conferred upon the local authority by [article 7](#) and let to any person, for any of the purposes mentioned in that article, any building or structure erected or maintained, and any part of an open space set apart or enclosed, pursuant thereto.

(2) ...

9 Restriction of public rights

A local authority may enclose during such periods and subject to such conditions as they may deem necessary or expedient any part of any open space—

(a) for the purposes of or in connection with the cultivation or preservation of vegetation in the interests of public amenity; or

(b) in the interests of the safety of the public;

and may preclude any person from entering any part so enclosed.

10 Charges in respect of user of open spaces

A local authority may—

(a) make such reasonable charges as they think fit for—

(i) the use or enjoyment of anything provided by them under [sub-paragraphs \(a\) to \(e\) of paragraph \(1\) of article 7](#) ; or

(ii) the use of any building or structure erected or maintained by them under [sub-paragraph \(f\) of the said paragraph \(1\)](#); or

(iii) admission to, or the use of, any part of any open space set apart or enclosed by them under [sub-paragraph \(g\) of that paragraph](#); and

(b) authorise any person to whom any right is granted or any building or structure is let under [article 8](#) to make reasonable charges in respect of the purposes for which the local authority themselves may make charges under [sub-paragraph \(a\) of this article](#):

Provided that no charge for admission to any reading room provided under this Part of this order shall be made on more than twelve days in any one year or on more than four consecutive days."

57. [Article 11](#) of the 1967 Order provides, so far as is material:

"11 Exercise of powers under articles 7 to 10

(1) Subject to the provisions of this article and of [article 12](#) , the powers conferred on the local authority by [articles 7 to 10](#) maybe exercised notwithstanding the provisions of any enactment or any scheme made under, or confirmed by, an enactment.....

(2) Subject to the provisions of [article 9](#) as relates to the enclosure of any part of an open space in the interests of public safety, the powers of [articles 7, 8 and 10](#) shall not be exercised in respect of any open space in such a manner that members of the public are by reason only of the exercise of such powers unable to obtain access without charge to some part of such open space.

(3) No power conferred upon a local authority under [articles 7 to 10](#) shall be exercised with respect to any open space in such manner as to be at variance with any trust for the time being affecting such open space (not being a trust existing by virtue of [section 10 of the Open Spaces Act 1906](#)) without an order...."

58. [Article 12](#) restricts the use of common land. It provides:

"12 Restriction on exercise of powers under articles 7 and 8 in relation to commons

(1) In the exercise of powers conferred by [articles 7](#) and [8](#) the local authority shall not, without the consent of the Minister ..., erect, or permit to be erected any building or other structure on, or enclose permanently, or permit to be enclosed permanently, any part of a common.

(2) Nothing in this article shall be deemed to require the consent of the Minister to—

(a) the maintaining or re-electing by, or with the permission of, a local authority of any building or other structure erected on a common before the date of operation of this order; or

(b) the continuing by, or with the permission of, a local authority of any permanent enclosure of part of a common made before that date;

and any such building or structure, or permanent enclosure, shall be deemed to have been lawfully erected or made (as the case may be).

[(2A) [Sections 39 and 40 of the Commons Act 2006](#) apply in relation to an application for consent under paragraph (1) as they apply in relation to an application for consent under [section 38\(1\)](#) of the Act.

(2B) [Section 41](#) of the Act applies in relation to the carrying out of works in contravention of paragraph (1) as it applies to works carried out in contravention of [section 38\(1\)](#) of the Act (and as if references to consent under that provision were to consent under paragraph (1)).]

(3) ..."

59. Additionally, the power to provide exhibitions and trade fairs, conferred by [Article 7\(1\)\(bb\)](#) , is not exercisable on a common: see proviso (vii) to [Article 7](#) .

60. [Section 5 of the Metropolitan Commons Act 1866](#) , as amended by the 2006 Act, prohibits enclosure of a metropolitan common which is under the control and management of a London Borough Council. However, if ministerial consent was given under [Article 12](#) of the 1967 Order, enclosure would be lawful.

61. [Section 193 of the Law of Property Act 1925](#) ("LPA 1925") provides:

"Members of the public shall have rights of access for air and exercise to any land which is a metropolitan common within the meaning of the [Metropolitan Commons Acts, 1866 – 1898](#) , or manorial waste, or a common, which is wholly or partly situated within an area which immediately before 1st April 1974 was a borough or urban district, and to any land which at the commencement of this Act is subject to rights of common and to which this section may from time to time be applied in manner hereinafter provided:

Provided that –

(a) such rights of access shall be subject to any Act, scheme, or provisional order for the regulation of the land, and to any byelaw, regulation or order made thereunder or under any other statutory authority; and

(b) the Minister shall, on the application of any person entitled as lord of the manor or otherwise to the soil of the land, or entitled to any commonable rights affecting the land, impose such limitations on and conditions as to the exercise of the rights of access or as to the extent of the land to be affected as, in the opinion of the Minister, are necessary or desirable for preventing any estate, right or interest of a profitable or beneficial nature in, over, or affecting the land from being injuriously affected, for conserving flora, fauna or geological or physiographical features of the land,] or for protecting any object of historical interest and, where any such limitations or conditions are so imposed, the rights of access shall be subject thereto; and

(c) such rights of access shall not include any right to draw or drive upon the land a carriage, cart, caravan, truck, or other vehicle, or to camp or light any fire thereon; and

(d) the rights of access shall cease to apply—

(i) to any land over which the commonable rights are extinguished under any statutory provision;

(ii) to any land over which the commonable rights are otherwise extinguished if the council of the county [county borough][or metropolitan district] ... in which the land is situated by resolution assent to its exclusion from the operation of this section, and the resolution is approved by the Minister."

62. In my view, [section 193 LPA 1925](#) applies to the Common, either because it is a metropolitan common or an urban common (see *Gadsen on Commons and Greens* by Cousins and Honey, 2nd ed., 2012, paragraphs 9-04 – 9-05).

63. It appears that the rights of common were not extinguished over the 20 acres around Neal's Farm when the land was sold to the Asylum by Earl Spencer in 1857. The conveyance provided that the land would be free from rights of common only "so far as ... Earl Spencer could ... legally enclose or approve the same but not otherwise". However, when the scheme for the registration of rights of common was introduced by the [Commons Registration Act 1965](#), rights of common were registered over the 20 acres around Neal's Farm. In my judgment, this indicates that the ancient common law rights of common were not extinguished during the period when the 20 acres around Neal's Farm ceased to be part of the Common. If they had been extinguished, they would not have been registered under the [Commons Registration Act 1965](#).

64. According to *Gadsen*, at 4-11, mere non-use of rights of common is generally insufficient to raise the presumption of abandonment. However, abandonment accompanied by permanent alteration of the dominant tenement e.g. by construction of a building preventing the exercise of rights of common can result in extinguishment. On that basis, the rights of common could have been extinguished in respect of the footprint of the Neal's Farm buildings (though not its gardens). However, if that were the case, it ought to be apparent from the Commons Register and plan. They make no distinction between the buildings and the land surrounding them. Therefore on the balance of probabilities, I consider that the rights of common subsist.

Ground 1

65. The Council submitted that it had power to lease the premises to the IP under [Article 7\(1\)\(a\)](#) of the 1967 Order, either as an indoor facility for recreation under sub-paragraph (v), or as a centre or other facility for an organisation whose objects or activities are of a recreational or educational character, under sub-paragraph (vi). The Council further submitted that the exercise of these powers was consistent with its obligations under the [OSA 1906](#), and did not contravene [section 193 LPA 1925](#).

66. The Claimant submitted that the Council did not have power to grant the lease to the IP because the provision of childcare at a private nursery run by a private company, which had exclusive use of the premises and could restrict entry to members of the public, fell outside the scope of the 1967 Order as it was not a facility for public recreation and use. It was a commercial transaction, intended to further the IP's business interests and to benefit the Council by generating a profit from renting out the premises.

67. The Claimant had to accept that [Article 11](#) of the 1967 Order provided that the powers conferred on the local authority by [Articles 7 to 10](#) "may be exercised notwithstanding the provisions of any enactment" which meant that the prohibition on letting in section 34 of the 1871 Act could be overridden, as well as the rights granted by the [OSA 1906](#) and [section 193 LPA 1925](#), insofar as the Order so permitted. Moreover, [section 193\(a\) LPA 1925](#) expressly provided that the rights of access which it conferred were subject to any provision made for the regulation of the land and [section 123 LGA 1972](#) permitted the disposal of land held under the [OSA 1906](#).

68. However, the Claimant submitted that since this legislation, in particular the [OSA 1906](#), remained in force, it was the starting point for a consideration of the Council's duties and powers, and also ought to be taken into account when identifying the purpose and scope of the 1967 Order, and interpreting its provisions. I agree with the Claimant's submission.

Open Spaces Act 1906

\69. By virtue of [section 10 OSA 1906](#), the Council holds and administers the Common in trust "to allow, and with a view to, the enjoyment thereof by the public as an open space". The Council is the trustee and the inhabitants of Wandsworth are the beneficiaries of the trust. In *R (Beresford) v Sunderland City Council [2004] 1 AC 889*, Lord Walker said, obiter, at [47]:

"...where land is vested in a local authority on a statutory trust under [section 10 of the Open Spaces Act 1906](#), inhabitants of the locality are beneficiaries of a statutory trust of a public nature...."

70. The effect of a statutory trust of this nature was considered in a series of rating cases which turned upon earlier legislation governing parks and open spaces held by local authorities.

71. In *The Churchwardens and Overseers of Lambeth Parish v London County Council [1897] AC 625*, Lord Halsbury held that the Council did not occupy Brockwell Park, they were "merely custodians and trustees for the public" and "there is no possibility of beneficial occupation to the county council; they are incapable by law of using it for any profitable purpose; they must allow the public the free and unrestricted use of it". The mansion house and refreshment rooms remained part of the park and the same principles applied to them.

72. In *Mayor of Liverpool v Assessment Committee of West Derby Union [1908] 2 KB 647*, which concerned Stanley Park, Sir Gorrell Barnes, President, described Liverpool Corporation as "not occupiers, but mere custodians or guardians of the property for the public, who are themselves the occupiers" (at 663). Farwell LJ said (at 669):

"The by-laws are for the good management of the park as dedicated to the public. I can find nothing to warrant the suggestion that the corporation are to be allowed to use the park on those days for their own profit. The object appears to me to be to enlarge the public benefit intended to flow from its use as a park by allowing the park to be utilised during the seven days for some charitable or public purposes for which a small charge may be made, or possibly to enable the corporation themselves to recoup the expense to which they may be put by holding some show there which may be of general public interest. I very much doubt whether on the true construction of these by-laws the corporation are entitled to use the park for the purpose of making a profit for themselves...."

73. These authorities were applied by the Court of Appeal in *Burnell v Downham Market Urban District Council [1952] 2 QB 55*, which concerned the local authority's liability to rates in respect of seven acres of land which it held under the [OSA 1906](#)

. The Master of the Rolls held that the land was held on a statutory trust, imposing on the local authority the duty of allowing it to be used by the public for the purposes of recreation (at 65), and the case was indistinguishable from the *Brockwell Park* case. However, he qualified Lord Halsbury's reference to "free and unrestricted use" by the public, saying (at 66):

"It is not suggested that "free and unrestricted use" by the public means that the public, that is any member of the community who chooses to do so, must be free to go upon the land at any time of the day or night. A right for a local authority, or for any other body charged with the duty of holding and managing an open space or park for the public use, to close such a place at night, for example, must clearly be ancillary to, if not indeed essential for, good regulation. The terms of the [Open Spaces Act 1906](#) , themselves indicate that a right of closure as such is not inconsistent with dedication for public recreation. In the *Brockwell Park* case itself there were certain portions of the land from which the public was necessarily excluded – those portions occupied by a keeper's lodge, the bandstand, and refreshment building. But those exclusions were manifestations of the duty and exercise of management, and their total area compared with the whole park was of course negligible."

74. The Master of the Rolls added (at 67-68) that allowing local tennis, cricket and football club occasional exclusive use of the facilities, at which times members of the public would be charged for entry, was consistent with the duty to provide for recreation for the public and ancillary to the management of the open space.

Making a profit

75. In the light of the observations in the *Brockwell Park* and *Liverpool* cases to the effect that the local authority, as trustee, could not lawfully make a profit from land held under the [OSA 1906](#) , the Council conceded that it could not properly use any rent paid by the IP for its general purposes; it could only be used for the purpose of improving or maintaining the Common. In its written evidence and skeleton argument in these proceedings, the Council had stated it intended to use only 30% of any rent received from the IP for the purpose of improving and maintaining the Common, but it withdrew that statement during the hearing. Of course, I accept the Council's point that the cost of maintaining the Common far exceeds the amount of rent payable under the proposed lease.

Occupation of Neal's Farm by groundsmen

76. *Burnell* and the *Brockwell Park* case confirmed that the statutory trust applies equally to buildings in the open space. Typically, they are occupied for purposes ancillary to the management of the open space and the provision of facilities to the public, which justifies any necessary limitations on access by the public. The *Survey* indicated that when, in 1913, the LCC purchased the 20 acres of land including Neal's Farm, it planned to adapt the existing buildings for use as refreshment rooms, tenements for the staff, conveniences, and dressing rooms. The Lodge is still used as a café and for many years the Cottage and Lodge were occupied by Common groundsmen, under residential service tenancies, until privatisation of the parks service.

77. Express provision is now made for these uses under the terms of the 1967 Order. Under [Article 7](#) , the Council is authorised to:

"(d) provide meals and refreshments of all kinds to sell to the public; and

(f) erect and maintain for or in connection with any purpose relating to the open space such buildings or structures as they consider necessary or desirable including (without prejudice to the generality of this paragraph) buildings for the accommodation of keepers and other persons employed in connection with the open space;

78. The Council relied upon the fact that the public had never enjoyed access to these premises because they were occupied by the groundsmen. However, as the case law demonstrates, such occupation was ancillary to the management of the Common, and so the necessary restriction on public access was consistent with the statutory trust, as well as expressly authorised by [Article 7](#) of the 1967 Order. The premises remained subject to the statutory trust, and so even though the premises were no longer needed for the groundsmen, the Council could not treat them as surplus property which it could dispose of as it saw fit. As the Council recognised, the premises could only be used in accordance with the legislation which governed the Common as a whole.

Facilities for public recreation

79. The Claimant rightly emphasised the importance of the references to the interests of the public in the 1967 Order, which reflected the legal position, namely, that the Council holds the Common on trust for the public as beneficiaries. For example, the proviso in [paragraph \(vi\) of Article 7](#) states the local authority must satisfy itself when providing indoor facilities that it has not unfairly restricted the space available to the public for recreation in the open air.

80. The Claimant submitted that the powers conferred under [Article 7 to 9](#) of the 1967 Order had to be construed in the light of the headings to those Articles. [Article 7](#) is headed "Facilities for public recreation". [Article 8](#) is headed "Licences to provide facilities and letting of land for public recreation". [Article 9](#) is headed "Restriction of public rights".

81. In *R v Montilla* [2004] UKHL 50, [2004] 1 WLR 3141, Lord Hope giving the opinion of the Committee, held that headings were as much part of the context of an Act of Parliament as Explanatory Notes, which were an admissible aid to construction (at [34] – [37]). The Claimant also referred to the case of *Inglis v Robertson* [1898] AC 616, in which Lord Watson held that headings in the [Factors Act 1889](#) "were not mere marginal notes, ... the sections in the group to which they belong must be read in connection with them and interpreted by the light of them".

82. Applying these principles, I consider that the headings indicate that the overall purpose and scope of [Articles 7 and 8](#) of the 1967 Order is to enable the Council to provide and maintain recreational facilities for the public i.e. "public recreation". Such an interpretation is consistent with the statutory trust created by [section 10 OSA 1906](#), under which the Council is the trustee and custodian of the Common and holds it for the enjoyment and use of the inhabitants of Wandsworth, who are the beneficiaries of the trust.

83. The Council submitted that [Article 7](#) of the 1967 Order confers wide powers *inter alia* to provide and maintain facilities for recreation (such as golf or swimming), to which public access is restricted, by payment of an admission fee, and by standard terms and conditions, such as limited opening hours. Access may also be restricted by general conditions of entry e.g. children would be excluded from rifle ranges. When providing facilities for public recreation under [Article 7\(1\)](#), it may set apart or enclose any part of the open space and preclude persons from entering other than a person to whom access is permitted (sub-paragraph (g)). [Article 8](#) empowers the Council to grant to any person the right to exercise its powers under [Article 7](#) on its behalf, and let to any person any building, structure or part of an open space for such purpose. [Article 10](#) permits the Council, and any person exercising the powers of the Council, to make reasonable charges to members of the public.

84. In oral submissions Mr Bhoose QC said that these wide powers would permit it, for example, to let out part of the Common to a private operator, to run a sports club or golf course, which would restrict access to members only. In those circumstances, how could there be any objection to letting out the premises to a private nursery provider which would offer services to local children? He pointed out in his skeleton argument that the Neal's Farm premises comprised only 0.04% of the total area of the Common (69.43 hectares).

85. In my judgment, the Council has underestimated the constraints on its powers to develop the Common. The first constraint on developing a sports club or golf course on the Common would be the restrictions on enclosure of common land. [Section 5 of the Metropolitan Commons Act 1866](#), as amended by the 2006 Act, prohibits enclosure of a metropolitan common which is under the control and management of a London Borough Council. Mr Bhoose provided a copy of this Act to me at the commencement of his submissions on the second day of the hearing, as it was clearly relevant. This prohibition is qualified by [Article 12](#) of the 1967 Order which prohibits the Council from erecting buildings on the Common, or permanently enclosing any part of the Common, without obtaining the consent of the Minister. Although rights of common are vested in individual property owners, not the public at large, [section 193 LPA 1925](#) confers "rights of access for air and exercise" upon members of the public, subject only to the limitations set out in paragraphs (a) to (d).

86. The position is different in respect of Neal's Farm. I have addressed at paragraphs 61 and 62 above the question whether or not rights of common continue to exist over Neal's Farm, and concluded that they do. The Council rightly submitted that, as the buildings at Neal's Farm premises pre-dated the 1967 Order, ministerial consent for the buildings would not be required, by virtue of [Article 12\(2\)](#). The same may apply to the enclosure of the land to create the front and rear gardens at Neal's Farm, if (as seems likely) that occurred before the 1967 Order. Moreover, the object of [section 193 LPA 1925](#) is to grant the public rights of access to "land" for the purposes of "air and exercise", and so by implication, it would not extend to buildings built on common land, unless they were in some way ancillary to the right of access to the land.

87. The second constraint on the development of a sports club or golf course on the Common would be the public rights of access and use. Since the Common is held on trust for the use of the public, and because [Article 7](#) of the 1967 Order is intended to provide "Facilities for public recreation", the sports club or golf course would have to be open to all members of the public who wished to enter, upon payment of a "reasonable charge" and subject to standard terms and conditions of entry. Therefore, the operators would not have the power to exclude or restrict access by members of the public, for example, by means of a membership scheme with high annual fees and a long waiting list, or by screening prospective members for suitability.

88. The Council's proposal to let the premises at Neal's Farm to a private company (the IP) to operate a private fee-paying nursery presents even greater difficulties, since members of the public would not have a right of access to the premises, and it would not provide them with any facilities. The IP would control access to the premises, which would usually be limited to its staff and up to 62 enrolled children in any one term, and visits by parents. Facilities would only be provided for the cohort of children enrolled in the nursery, not for children generally.

89. In argument, Mr Bhoose QC conceded that the Council would not have power under the 1967 Order to let out premises on the Common to a private provider to run a fee-paying private preparatory school, which local children could attend, because it would not be a facility for public use and the public would not have access to the premises.

90. Mr Bhoose QC sought to distinguish the proposed letting to the IP on the grounds that it will be a term of the lease that children aged 2 to 4, who are eligible for child care hours funded by the local authority, will be admitted in accordance with the IP's admission criteria, and will not be charged a top-up fee. All children aged 3 and 4 are entitled to 15 hours of local authority funded childcare for 38 weeks of the year¹. Children aged 2 are eligible for funded childcare if their parents are on benefits. This will assist the Council in the discharge of its obligations to secure local authority funded child care under [section 7 of the Childcare Act 2006](#). In practice, although all Council-run nurseries admit children who are local authority funded, some private nurseries choose not to do so, because they can charge higher rates to privately funded children.

91. However, there is no guarantee that any child who is local authority funded will be admitted to the nursery as it operates a first come/first serve policy and does not reserve places for children who are local authority funded. The IP's admission criteria are:

"We arrange our waiting list in first to come first to be served order. In addition, our policy may take into account:

- the length of time on the waiting list in accordance to the first to come first to be served;
- whether any siblings already attend the setting; and
- the capacity of the setting to meet the individual needs of the child; and
- the number of places in each class and the total number of places granted by the planning permission and Ofsted registration."

92. Moreover, local authority funded hours will only represent a small proportion of the nursery's total opening hours. The nursery will be open for 10 hours per day, and 50 hours per week. The local authority funded hours are limited to 15 hours per week per child. As the IP caters for working parents, it is likely that the nursery will be open for more than 38 weeks per year, which is the limit for local authority funding.

93. In my view, the fact that the nursery may admit children who are local authority funded for 15 hours per week, does not overcome the problem that this facility will only be provided to a cohort of up to 62 children, not to the public. The grant of a lease to the IP for 15 years will prevent any public use of the premises for a significant period of time. In my judgment, this restriction on public access and use is contrary to the statutory trust arising under [section 10 OSA 1906](#), under which the Common is held on trust for the use and enjoyment of all the local inhabitants. [Article 11](#) of the 1967 Order, which allows the exercise of powers under [Articles 7 to 10](#) notwithstanding the provisions of the [OSA 1906](#), does not avail the Council because the restrictions on access and use would also be contrary to the intended purpose and scope of [Articles 7 and 8](#), which is to provide facilities for "public recreation". The nursery does not provide facilities for public recreation.

Article 7(1)(a)(v): indoor facilities for any form of recreation whatsoever

94. The Claimant also submitted that the proposed nursery use fell outside the meaning of the term recreation as used in the heading to [Article 7](#) of the 1967 Order, and in [sub-paragraphs \(v\) and \(vi\) of paragraph \(1\)\(a\) of Article 7](#).

95. The term recreation is not defined in the Order, save for the limited purposes of [Article 13](#) (Competitions and Prizes) where it is defined as "any activity for which a local authority have power to provide facilities in an open space".

96. [Section 19 of the Local Government \(Miscellaneous Provisions\) Act 1976](#) confers power on a local authority to provide "recreational facilities" and the non-exhaustive list of such facilities is a useful guide to the meaning of recreational facilities in a local authority context:

"19 Recreational facilities.

(1) A local authority may provide, inside or outside its area, such recreational facilities as it thinks fit and, without prejudice to the generality of the powers conferred by the preceding provisions of this subsection, those powers include in particular powers to provide—

(a) indoor facilities consisting of sports centres, swimming pools, skating rinks, tennis, squash and badminton courts, bowling centres, dance studios and riding schools;

(b) outdoor facilities consisting of pitches for team games, athletics grounds, swimming pools, tennis courts, cycle tracks, golf courses, bowling greens, riding schools, camp sites and facilities for gliding;

(c) facilities for boating and water ski-ing on inland and coastal waters and for fishing in such waters;

(d) premises for the use of clubs or societies having athletic, social or recreational objects;

(e) staff, including instructors, in connection with any such facilities or premises as are mentioned in the preceding paragraphs and in connection with any other recreational facilities provided by the authority;

(f) such facilities in connection with any other recreational facilities as the authority considers it appropriate to provide including, without prejudice to the generality of the preceding provisions of this paragraph, facilities by way of parking spaces and places at which food, drink and tobacco may be bought from the authority or another person;

and it is hereby declared that the powers conferred by this subsection to provide facilities include powers to provide buildings, equipment, supplies and assistance of any kind."

97. I also found it helpful to consider previous interpretations of 'recreational use' for the purpose of the law of commons and greens. These have included:

- i) sports and pastimes - *Fitch v Rawling* (1795) 2 H. Bl. 393 , at 398;
- ii) horse riding - *Mounsey v Ismay* 159 E.R. 621 (1865) 3 Hurl. & C. 486 ;
- iii) erecting a maypole - *Hall v Nottingham* (1875) 1 Ex. D. 1 ;
- iv) practicing archery - *New Windsor Corporation v Mellor* [1975] Ch. 380 , at 393;
- v) fishing, bathing and walking over a defined area - *R v Doncaster MBC ex parte Braim* (1989) 57 P&CR 1 ;
- vi) Walking, cycling and horse-riding - *Forestry Commission v SSCLG* [2015] EWHC 1848 (Admin) , at [28].

98. In *Attorney-General v Cooma Municipal Council* [1962] NSW 663 , the Supreme Court of New South Wales held that the construction of an information centre in a park was for the purpose of recreation, which included recreation of the mind, such as libraries and art galleries. It was not limited to physical or sporting activities. Jacobs J. said:

"The word "recreation" is a very wide word. The definition of it in the *Oxford Dictionary* is: "The action of recreating oneself or another, or the fact of being recreated by some pleasant occupation, pastime or amusement."

99. All these illustrations of recreational activities are consistent with the dictionary definition of recreation which is a means of refreshing or enlivening the mind or spirits by some pleasant occupation, pastime or amusement. The word originates from the Latin verb *recreare* meaning to refresh, restore, make anew, revive, invigorate.

100. The Council submitted that the term "recreation" had a broad meaning and the breadth of meaning was reinforced in sub-paragraph (v) by the addition of the words "any form of recreation whatsoever". I accept this submission.

101. The Council also submitted that children's play was a form of recreation, and that in the IP's nursery the children would be provided with opportunities for designed and structured play, as part of their learning.

102. I agree with the Claimant's submission that the IP will primarily be providing a child care facility, within which it will provide pre-school education and play for the children, as well as rest, exercise and meals. The IP originally applied for planning permission to operate from 7.30 am to 6.30 pm but because of objections from local residents, planning permission was only granted from 8.00 am to 6.00 pm. These hours are far in excess of the hours which pre-school children would ordinarily spend in a setting which was for educational purposes (a nursery school, sometimes attached to a primary school, where pre-school children often attend mornings or afternoons only, or at most a school day from 9 am to 3.00 pm), or in a setting which was mainly for socialising and play with other children, such as a play group or One O'clock club, lasting a few hours at most. The IP's hours of operation demonstrate that it is intended to provide childcare for working parents, allowing them to drop off and collect their child at the beginning and end of the working day.

103. Both parties accepted that One O'clock clubs, which are a well-established facility of London parks, are recreational, providing any parents or carers of pre-school children with a safe space in which to socialise, play, and participate in activities, with the assistance of staff. They are usually Council-run, free of charge and operate from 1 pm to 3.30 pm.

104. Applying the Council's own broad guidance, which I have set out in the footnote 2 below,² the IP's facility is a combined nursery school and day nursery. I accept the Claimant's submission that provision of child care in a nursery setting does not come within the meaning of the term recreation. None of the illustrations from the legislation or case law suggest that it does. The fact that children will play in the course of their day at the nursery does not mean that the nursery can be properly described as a facility for recreation. That is not its main purpose. As Mr Matthias QC pointed out, children play wherever they are, including at home, but this does not make a domestic home an indoor facility for recreation.

Article 7(1)(a)(vi): centres and other facilities for the use of clubs, societies or organisations whose objects or activities are wholly or mainly of a recreational, social or educational character.

105. Mr Bhose QC submitted that, under [Article 7\(1\)\(a\)\(vi\)](#) of the 1967 Order, the Council was empowered to provide and maintain centres and other facilities, whether indoor or outdoor, for the use of a organisation such as the IP. By [Article 8\(1\)](#) the Council was empowered to let the premises to the IP. By [Article 10\(1\)\(b\)](#), the Council was empowered to authorise the IP to make reasonable charges in respect of the purposes for which it may itself make charges, namely, to charge parents for use of the nursery.

106. In my judgment, this analysis misconstrued the Council's powers. Under [Article 7\(1\)\(a\)\(vi\)](#) :

"(1) A local authority may in any open space

(a) provide and maintain -

(vi) centres and other facilities for the use of clubs, societies, or organisations"

Thus, the Council could provide and maintain such centres and facilities itself, and make a reasonable charge to a club, society or organisation for such use, pursuant to [Article 10\(a\)](#). Or, pursuant to [Article 8](#), it could grant to "any other person" the right to exercise its powers, in this instance, to provide and maintain such centres and facilities under sub-paragraph (vi) for use by a club, society or organisation. If it did so, it could authorise that person to make reasonable charges to the club, society or organisation for such use, under [Article 10\(b\)](#), in respect of the purposes for which the Council could make charges under [Article 10\(a\)](#). Essentially, that person would stand in the shoes of the Council.

107. However, this is not what the Council has done in this case. It has proposed to let the premises to the IP for its sole use, instead of letting the premises to the IP so that it could stand in the shoes of the Council and "provide and maintain ... centres and other facilities ... for the use of clubs, societies or organisations". The Council has power to charge the clubs, societies or organisations for the use of the centre or facilities, and so the IP could stand in the shoes of the Council and make the same charge. However, the IP is proposing to make a different charge – it is proposing to charge individual parents for its nursery services.

108. The Claimant submitted that, on a proper interpretation, sub-paragraph (vi) was intended to provide centres and facilities for non-profit making groups which shared a common interest, not limited companies who were operating a profit-making business. I accept the Claimant's submission that, in construing the words "clubs, societies or organisations" the *eiusdem generis* principle of construction should be applied "whereby wide words associated in the text with more limited words are taken to be restricted by implication to matters of the same limited character": *Bennion on Statutory Interpretation*, 6th ed., at [section 379](#). *Bennion* states the principle is presumed to apply unless there is some contrary indication, citing *Tillmanns & Co. v SS Knutsford Ltd* [1908] 2 KB 395. The word "organisation" has a very wide meaning, whereas "club" and "society" have a specific and, in this context, similar meaning. I do not consider that the absence of the word "other" before "organisation" indicates that the draftsman did not intend the *eiusdem generis* principle to apply. I agree that the identifiable class is not-for-profit groups which share a common interest, of a recreational, social or educational character. It excludes a commercial organisation such as the IP. However, I do not consider that the class necessarily excludes a limited company, as not-for-profit groups may be incorporated.

109. For these reasons, Ground 1 succeeds. The decision to grant the lease to the IP was not a lawful exercise of the Council's powers under the 1967 Order.

Ground 2

110. The Claimant's second ground was that Mr Tiernan acted unlawfully in deciding to grant the lease to the IP on 16 July 2015 because he did not have authority to do so under the Council's Constitution. Any such decision had to be made either by the full Council or the Executive. It could not be delegated to an officer.

111. I accept the Defendant's submission that the decision was taken by Mr Tiernan in accordance with the delegated authority conferred by the Council's Constitution.

112. The statutory scheme for the governance of the Council is set out in [Part 1A of the Local Government Act 2000](#) ("LGA 2000"). The Council operated executive arrangements, as specified in [section 9B\(1\)\(a\) LGA 2000](#) which take the form of a leader and cabinet executive, as specified in [section 9C\(3\) LGA 2000](#).

113. [Section 9D LGA 2000](#) determines which functions are the responsibility of the executive. Essentially, it provides that all decisions are ones for the executive unless there is some specific provision by virtue of which they are rendered non-executive decisions. Such non-executive functions remain the preserve of its full council, exercisable as in the past by the full council itself, or delegated to a committee or officer.

114. [Section 9E LGA 2000](#) makes general provision for the discharge of executive functions, which include *inter alia* delegation of executive functions to officers of the local authority.

115. The Secretary of State has made the [Local Authorities \(Functions and Responsibilities\) \(England\) Regulations\) 2000](#) ("the Functions Regulations") which make provision for non-executive and executive functions and responsibilities.

116. The Council had adopted a Constitution, as required by [section 9P LGA 2000](#) . It included the scheme of delegations to officers.

117. Article 7 of the Constitution related to the Executive. Article 7.01 recorded that the Cabinet (referred to therein as "the Executive"), consisted of the Leader of the Council and up to 9 Cabinet members. Article 7.06 was consistent with [section 9E LGA 2000](#) and provided that:

"7.06 The Executive's Responsibilities

The Executive's responsibilities are by law vested in the Leader of the Council who may choose to delegate them in any manner allowed by law, namely to the Executive to determine collectively, to individual Members of the Executive, to a committee of the Executive comprising solely Cabinet members, or to a Council officer. At each Annual Meeting, the Leader will confirm how he intends the Executive's powers to be exercised over the ensuing Municipal Year, although he may alter these arrangements at any time. The Leader will notify any such changes by reporting to a meeting of the Council.

Where, in this Constitution, there is reference to Executive powers, duties, functions and responsibilities, these are subject to the delegations approved and notified by the Leader.

The responsibilities of the Executive are set out in Part 3 of this Constitution.

Those Executive responsibilities which are delegated to officers are set out in Part 3 of this Constitution."

118. Part 3 of the Constitution contained 7 appendices. Appendix F was described on the contents page as "Delegations to officers". The version of Appendix F in force at the material time was titled "Scheme of Delegations to the Chief Executive, All Directors and certain Heads of Service and Proper Officer Functions – March 2015."

119. Paragraph 1 of the introduction to the Scheme of Delegations provided as follows:

" Exercise of Delegated Authority by other officers

1. On 28th September 1994 the Council's Policy and Finance Committee agreed that the delegation of authority to a chief officer includes the exercise of that authority on his behalf by one of his subordinates under his supervision and as a consequence chief officers are entitled to authorise their junior staff to act on their behalf."

120. [Section 5](#) of the Scheme of Delegations was concerned with delegations to the "Director of Finance" and included two further sub-sections, the second of which was titled "5(B) Assistant Director (Property Services)". This included the following:

"The Assistant Director of Finance (Property Services) is authorised to exercise the following powers and duties of the Council, under the direction of the Director of Finance:-

1.E To approve and conclude on the best terms reasonable obtainable for the Council:-

...

(1) the letting of investment property and of parts of operational properties which are surplus to current operational requirements and parts of operational properties which are to be let for the use by a Council contractor;"

121. The reference to sub-paragraph "(l)" was a typographical error and should be a reference to sub-paragraph "(i)", coming between sub-paragraphs "(k)" and "(m)". The delegation was a longstanding one, resulting from a resolution of the then Property Committee on 28 June 1994 (as recorded at the end of paragraph 1.E).

122. The power in "1.E.(l)" was concerned with three forms of letting. The first was the letting of "investment property", the second with the letting of parts of "operational properties" which were surplus to current operational requirements, and the third with letting of parts of "operational properties" which were to be let for use by a Council contractor.

123. The distinction between "investment property" and "operational property" was intended to reflect the long-standing distinctions drawn between the two in local authority accounting (see the Code of Practice on Local Authority Accounting 2016-17, section 4.4.2). An "investment property" simply meant a property solely used to earn rentals or for capital appreciation or both, in distinction to an operational property which was one used by the authority itself for the provision of services or goods or for administrative purposes. Although the phrase "investment property" did not entirely accurately reflect the status of the premises, for the reasons set out in Ground 1, I do not consider that this categorisation was capable of invalidating the delegation.

124. By operation of these provisions, the letting of the premises was delegated to the Assistant Director of Finance, who was further authorised to delegate the matter to "his subordinates under his supervision". As at July 2015 the Assistant Director of Finance (Property Services) was Andrew Algar. His immediate subordinate officer was Tunde Ogbe, Head of Valuation and Asset Management, with Mr Ogbe's immediate subordinate officer being Mr Tiernan, the Principal Valuer.

125. As appeared from the form completed by Mr Tiernan on 16 July 2015, he was acting under delegated power "1.E (l)". Furthermore, he was acting under Mr Algar's direct supervision and with his express agreement, as confirmed by the email dated 8 July 2015 from Mr Algar. Mr Algar was aware of, and agreed to, the letting. I conclude therefore that Mr Tiernan had due authority to make the decision.

126. Pursuant to the requirements of the Functions Regulations, the Constitution provided as follows:

"FUNCTIONS WHICH THE COUNCIL HAS DECIDED ARE TO BE THE SOLE RESPONSIBILITY OF THE EXECUTIVE"

.....

[Schedule 2](#) to the Functions and Responsibilities Regulations ...

Para 1 – Local Act Functions "

2. Management and maintenance of Wandsworth Common Wandsworth Common Act 1871. Ss 1 , 4 , 33-37 , 44 and 71 ."

127. The Claimant relied on this part of the Constitution in support of his submission that only the Executive could take the decision to grant the lease. However, the 1871 Act did not confer any power on the Council to grant the lease. The Council's

power of disposal arose solely under the Long Act, being a public Act, and the power to grant leases of investment/operational properties under any such public Act had been delegated to officers.

128. The Claimant also submitted that the decision did not comply with the mandatory requirements for the recording of the decision in the Local Authorities (Executive Arrangements)(Meetings and Access to Information (England) Regulations 2012 ("the 2012 Regulations"). Regulation 13(4) of the 2012 Regulations requires the officer to produce a written statement which records the decision taken, including the date; the reasons for the decision; and details of any alternative options considered and rejected; and a record of any conflict of interest on the part of any executive member consulted.

129. I accept the Defendant's submission that the form signed by Mr Tiernan, dated 16 July 2015, fulfilled these requirements. It recorded his decision, namely, to approve the agent's recommendation to grant a lease to the IP. It recorded the reasons for the letting of the premises and the choice of the IP, in preference to the other bidders, as the IP offered "best consideration". No conflicts of interest arose. The form was annotated with the words "commercially sensitive not to be released" because of the details of the rent etc. contained therein. By regulation 20(2) of the 2012 Regulations, public inspection pursuant to regulation 14 was not required if, in the opinion of the proper officer, the document either contained or might contain confidential information.

130. Finally, even if there was any failure to comply with the 2012 Regulations which I have missed, it was a minor procedural failure. I would refuse relief under [section 31\(2A\)\(a\) Senior Courts Act 1981](#) , as it would be highly likely that the outcome would not have been substantially different if the conduct complained of had not occurred.

131. For the reasons set out above, Ground 2 does not succeed.

Conclusion

132. The Claimant's claim succeeds on Ground 1 only.

Footnotes

- 1 From September 2017, local authority funded childcare will increase to 30 hours per week for 3 and 4 year old children, but only where each parent's earnings exceeds the minimum threshold (16 hours at minimum wage rates) and is below £100,000.
- 2 The Council's website states:
" Nurseries in Wandsworth. Day nurseries Day nurseries provide childcare for children from under one-year-old to the age of 5. They are registered with Ofsted to provide childcare. They

are usually open from 8 am to 6 pm, all year round.

Private nursery schools A nursery or school that is run by a private sector provider. They provide education for children aged from two and a half to five. They are registered with Ofsted to provide childcare. Private nursery schools are usually open part-time.

Independent schools Independent schools provide education for children aged from three to 11 in Wandsworth. They have to be registered with the Department of Education. Schools are usually open part-time.

Pre-school playgroup . Pre-school playgroups provide places for small groups of children aged from two and a half to five, to learn and play. They are run by the voluntary sector on a not-for-profit basis. Playgroups are usually open part-time.

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Appendix H Objections and Officers' Responses

NOTE – Respondents could identify multiple objections

| <u>Number of Respondents</u> | <u>Issues Raised</u> | <u>Officers' Responses</u> |
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| 37 | 1. A large number of respondents proposed that a lido should be provided in North Walls Park. | <p>A petition was submitted in support of a lido at the North Walls Park. Members and officers met with the petition organisers to understand their ideas and shared information concerning the suitability of the Site. The petition was then presented to Full Council on 12 January 2022. The benefits of open water swimming were discussed. The response to the petition was that the council supports open water swimming but due to the current affordability and likely constraints on the Site (which can be found in the 2013 'River Park Leisure Centre Flood Risk Design Note'), the Site was not considered appropriate for a lido. Winchester Town Forum Members have offered to work with the petition organisers to look at outdoor swimming opportunities in and around Winchester Town.</p> <p>The North Walls consultation was referenced in some of these objections. The North Walls Consultation asked a question that included a wet play option as well as a lido, but did not separate the two. The council is progressing the wet play option in the North Walls Improvement Plan.</p> |
| 17 | 2. The new leisure centre is not accessible to a large part of the town, and does not adequately replace the former centre, and | A full Sport England Sports Facilities Audit was undertaken as part of the Leisure Centre replacement process. This was completed in November 2017 and covers the period from 2017 to 2037. This showed that the new Sport and Leisure |

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| | <p>is not large enough to cater for the expected population growth. The old centre should therefore be retained.</p> | <p>Park meets the forecasted demand for that period. Cabinet has already decided to decommission the leisure centre by its decision dated 24 June 2020.</p> <p>Accessibility to the new Sport and Leisure Park is being enhanced through the Winchester Movement Strategy. It has recently been agreed to provide free bus access on the park and ride buses from the City Centre to Bar End. The accessibility and use of the new leisure centre is not affected by the proposed disposal of the land.</p> <p>The specification of the new WSLP was designed and predicated on the River Park Leisure Centre closing.</p> |
| 40 | <p>3. Population must have opportunities to remain active, and must consider the health benefits as part of their decision making.</p> | <p>Officers agree with this statement, which is a prime objective of the North Walls Park Plan, new leisure centre and is supported by Councillor Angela Clear as Cabinet Member for communities and wellbeing.</p> <p>The Winchester Sport and Leisure Advisory Board meet in public. Residents who are interested in attending should contact cdrummond@winchester.gov.uk</p> |
| 213 | <p>4. To grant the university a 150 lease would violate the 1902 covenant which states that area should be used for public purpose/open space and should not be used for profit. The original transfer of land effectively made the council Trustees on behalf of the local</p> | <p>The Site forms part of WCC's freehold title no. HP3062 comprising the North Walls Recreation Ground and the site of the Ancient Gateway of Hyde Abbey, which was acquired under an Indenture dated 3 July 1902 made between William Barrow Simonds and the Urban District Council of the City of Winchester, being the Winchester City Council's statutory predecessor. The limitations on the use of the land created by the Indenture under the statutory trust which arose under s.164, Public Health Act 1875 could be removed by</p> |

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| | <p>community, and as such a number of respondents question who has title to the land and can the council legally 'sell' it.</p> | <p>appropriation under s.122, Local Government Act 1972 and any rights impeding works overridden by the application of S.203, Housing and Planning Act 2016. This would only apply to the part of the Site required for the university's new campus scheme.</p> <p>It should be emphasised that not only will the skate park and bowls club continue on the Site, but that continued public access to and recreational use of areas outside the Site, including Hyde Abbey Gardens, the North Walks Recreation Ground and the tennis courts, will be unaffected by the university's new campus scheme.</p> <p>(Appropriation also frees land held in accordance with the Open Spaces Act 1906 from any trust arising under that Act, although the council's legal advice is that the 1875 Act applies, not the 1906 Act.)</p> <p>The agreement for lease with the UoS will recognise the fact that the exercise of appropriation in relation to the Site is a necessary step for enabling the development. Where open space is concerned the appropriation must be the subject of an advert for 2 weeks and consideration of objections – in a similar way to the notice proposing a disposal. Further detail is included in the Cabinet report and the appropriation would be the subject of a further report and decision by Cabinet.</p> |
| 28 | <p>5. Alternative indoor and outdoor sports, leisure and cultural facilities including a museum, performance space, café, beach volley ball, basketball and table</p> | <p>A number of the proposed alternative uses are included within the new leisure park. The relocation of the facilities to the new Winchester Sport and Leisure Park site was considered in prior Cabinet reports and approved by Cabinet on 24 June 2020.</p> |

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| | <p>tennis. The site also provides the opportunity to create a variety of wheel chair accessible recreational uses.</p> | <p>Additionally, future recreational and sporting uses in North Walls Park are the subject of on-going engagement and communications as part of the implementation of the North Walls Park Plan. These include tennis courts and a café, the subject of the consultation in March 2019, and are to be provided as ongoing facilities in the park.</p> |
| 103 | <p>6. The Skate Park is loved and should remain. It is in excellent condition, and highly accessible. Skateboarding is a recognised Olympic sport. The site is especially good for young women and girl skaters as it is overlooked and well lit. It is also free of charge which benefits those on lower incomes The adjoining Bowling club is accessible and ideal for its use, being on flat ground, and should therefore be kept</p> | <p>Having taken account of public feedback, the arrangements now include a provision for the council to take a 'lease back' of the skate park. This will secure the continuation of the skate park under the council's management. It was never the intention for the skate park to be lost as it is recognised as a well-used and valuable community asset.</p> |
| 34 | <p>7. Winchester City Council are acting unlawfully. The land is protected as statutory open space under the Open Spaces Act 1906, and the Local government Act 1972. There is no mention in the Notice of the leasing arrangements for the existing leisure centre site, which should have been</p> | <p>See item 4 above.</p> <p>The existing leisure centre and associated car park are not "open space". Officers are satisfied that the closed leisure centre itself and the leisure centre car park do not qualify as open space. This is because the leisure centre has been closed and has not been used for public recreation since late 2020, and since closure the principal use of the leisure centre car park has been as a free car park for people visiting local shops and businesses and it is not an area used</p> |

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| | <p>included in the Notice and not treated separately. It is alleged that it would be illegal for the council to 'sell' the site at below market value. The whole process is legally flawed because there has been no competitive bidding for the site They point to the report to Cabinet CAB 3190 in 2019 which pointed out the legal implications of disposing of this land.</p> | <p>for recreational purposes. In any event, prior to the completion of the lease there will be substantial further opportunities for the public and stakeholders to express their views, both in response to the university's application for planning permission and the proposed appropriation of the part of the Site required for the new campus scheme, There is no proposal to sell at less than the best consideration that is reasonably obtainable (in accordance with the duty under S123 of the Local Government Act 1972). Competitive bidding for the sale of land by a council is not a statutory requirement and best consideration may lawfully be established through independent valuation advice.</p> |
| <p>144</p> | <p>8. The new proposals are not in the interest of the local community, and do not have any public benefit, and there is no guarantee of any public access</p> | <p>The Cabinet report draws out the public benefits of the proposals made by the university. The contractual arrangements to be entered into with the university will ensure the continuation of the skate park and will also be subject to the existing lease to the bowls club (unless they agree to relocate). Therefore, the existing recreational uses and the public benefits they bring, will remain. There are footways around all four sides of the Site which allow public access to Hyde Abbey Gardens, the North</p> |

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| | | <p>Walks Recreation Ground and the tennis courts from Gordon Road and Park Avenue.</p> <p>Public access through the Site (as developed by the university) will be recognised in the agreement for lease and lease.</p> |
| 29 | <p>9. Increased traffic problems in the area/environmental impact, including the impact on adjoining uses, i.e. St Bede's school, Hyde Abbey Gardens, the tennis courts, etc.</p> <p>With the development of Barton Farm, there will be significant pressures on the roads and other community infrastructure.</p> | <p>A full transport assessment of all potential impacts of traffic and other environmental impacts, together with a package of mitigation measures would be a pre-requisite of any application for planning permission to develop the Site.</p> |
| 7 | <p>10. There is no safe walking/cycling route. Servicing facilities are also inadequate. It is essential that there are good pedestrian and cycle links between uses on the site and elsewhere in the town</p> | <p>This is something that would be taken into consideration as part of the planning process, and there would be a requirement that cycling and walking are the prime modes of transport for accessing the Site. It will be important to show how good cycling and walking access will be achieved.</p> |
| 45 | <p>11. A number of respondents object to the principle of 'selling 'public land' to Southampton University. Many see the University as a commercial</p> | <p>The University of Southampton is an exempt charity under the Charities Act 2011. They are a chartered corporation, established by Royal Charter in 1952.</p> <p>The comments regarding the focus on arts and working with</p> |

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| | <p>organisation and not a public body and in their view private landlords should not be involved with public land. There are particular concerns that the University put commercial interests first, and have a poor record in respect of the Arts, including closing down the nationally respected Textile Conservation Centre.</p> <p>If the focus of this site is going to be the arts, why not work closer with the existing arts community to develop and fund the proposals.</p> | <p>the community are wholeheartedly agreed with by the University – this absolutely is their intention and will be clearly set out in their engagement plan.</p> |
| 41 | <p>12. The land including the existing leisure centre should be repurposed for the benefit of local residents or left alone. Various suggestions are put forward as to how the existing leisure centre building might be used. Reusing the existing building would be more compatible with the council's declared climate emergency in that the demolition and construction of a new building is more carbon intensive.</p> | <p>The council see no public benefit in leaving the existing leisure centre in its current condition.</p> <p>The council will consider any suitable alternative uses for the empty leisure centre building as part of its consideration of appropriation of the relevant part of the Site. Such uses should be economically viable and practicable considering its condition.</p> <p>Any new buildings put forward by the university as part of a planning application would need to meet the council's policies on energy efficiency and related climate change requirements.</p> |

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| 207 | <p>13. There has been a failure to consult on the principle of disposing of this land and the adjoining leisure centre with local residents, and key organisations such as the University of Winchester, the Hampshire Wildlife Trust, experts in Historic Areas, and the Theatre Royal who will all be affected by this proposal.</p> | <p>There is no statutory requirement for a formal public consultation before entering into a leasehold disposal, and nor has the council made a clear commitment to formal public consultation prior to any disposal of the Site.</p> <p>However, prior to the completion of the lease there will be substantial further opportunities for the public and stakeholders to express their views, both in response to the proposed appropriation of the Site as well as in response to the university's application for planning permission.</p> <p>The public has been aware of the consideration of alternative uses for the Site since the decision to provide a new leisure centre at Bar End in 2017 and to decommission the leisure centre in June 2020. Various options for use of the Site have been considered and discussed which include housing and a lido.</p> |
| 72 | <p>14. There is a great deal of uncertainty on how the land will be used, and the future intentions of the University. Several respondents want to see the land retained/ returned to open space. And there is concern that the University uses will dominate the park and restrict access to the site and the wider area.</p> | <p>The current decision relates to entering into an Agreement for Lease with the university to allow them to bring forward development proposals.</p> <p>Detailed consideration of the future use of the Site will be undertaken once the details of the proposed campus scheme on the Site are known, and a further decision by the council would be required for the relevant part of the Site to be appropriated to enable the university's development proposals to move forward and for the lease to be granted.</p> <p>The appropriation decision will be informed by a report, based on worked out development proposals, addressing the</p> |

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| | | <p>central issue under S122(1) Local Government Act 1972 of whether the relevant part of the Site “is no longer required for the purpose for which it is held”. This is a comparative test that involves consideration of whether there is a greater public need for development for the proposed new use than the current use.</p> <p>Because the Site includes open space, any such appropriation would need to be preceded by an advertisement in two consecutive weeks in a newspaper circulating in the area, and consideration of any objections to the proposed appropriation: S122(2A) Local Government Act 1972.</p> |
| 23 | <p>15. There has not been a proper assessment of the risks and potential costs to the council. The lease requires the council to demolish the leisure centre at a cost of £2 million, which won't be recouped by the council. There are no/few restrictions on the lease, the leaseholders will be able to sell on the lease, with no obligation for repairs and the University does not have a good record of caring for its buildings. The council will accrue significant costs through the leasing arrangements. The proposed length of the lease is too long, and is a virtual</p> | <p>The purchase price to be agreed will reflect the obligation on the council to demolish and remediate the Site. These costs are therefore properly accounted for.</p> <p>The capital investment by the university required to build out the Site for educational purposes, and the benefits accruing to the city from that, could not be justified on a short term lease. Long leases of 150 years are a market standard in such situations where the freeholder wishes to retain their legal interest in the land and generate a capital receipt, whilst also enabling development.</p> <p>Any assignment would continue to be subject to the restrictions on use and other lease covenants, and the Site would continue to be governed by planning controls.</p> <p>The Leasehold Property Repairs Act 1938 and the Landlord and Tenant Act 1927 limit a landlord's rights to enforce</p> |

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| | freehold | repairing obligations. The practical effect of including repairing covenants in a long lease is therefore limited. |
| 27 | 16. Granting a lease to the University would lead to an increase in the number of students which will impact the surrounding area, including an increase in demand for accommodation. Winchester already has a higher student population to general population ratio than both Oxford and Cambridge. | <p>We would expect the development proposals made by the university under its planning application to explain how any increase in student numbers would be planned for in terms of student accommodation</p> <p>Student housing will not be permitted on this Site.</p> <p>Vision for Winchester 2030 sets out our ambitions around promoting culture and supporting creative endeavour, supporting our post-pandemic recovery, the environmental sustainability of our economy and the long-term employability of young people</p> |
| 51 | 17. The site is within a flood zone, and important to flood defences, and water quality. | The site of the leisure centre and skate park are within an area at risk of flooding. Any proposals to develop in or around this area would need to address this issue in line with planning policy and include an assessment of the risk of flooding which would be considered as part of the planning application process and, if permission were granted, include a package of mitigation measures as appropriate. The assessment would also include the potential wider impacts of the development in flood risk terms. |
| 15 | 18. The proposals are contrary to the adopted Local Plan policy, wherein existing open space and leisure uses should not be developed unless there has been suitable alternative | <p>Any future development proposals for the Site will require planning consent, and the planning application will be required to be assessed in accordance with the adopted Local Plan.</p> <p>A new and enhanced leisure facility has already been</p> |

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| | <p>provision made. The Local Plan also identifies a shortfall of open space and children's play provision locally. The land subject of the Notices is identified on Policy Map 26 which accompanies the local Plan Part 2 as being outside of the settlement boundary and therefore is covered by policy MTRA 4 in the Local Plan Part 1 which seeks to restrict development in the countryside and rural areas.</p> | <p>provided to replace the decommissioned leisure centre.</p> <p>The open space (the bowls club and skate park) is remaining. The children's play area is outside of the site plan and is not included in this proposed disposal.</p> <p>It is correct that the land subject of the notices is outside of the settlement boundary and as such is covered by policy MTRA 4 in the Local Plan Part 1 which seeks to protect the countryside and rural areas.</p> |
| 70 | 19. Adjoining green space should be protected. There is a danger that development on this site would cause pollution, and threaten the Itchen and Winnall Moore Nature reserve | As part of the assessment of any planning application that comes forward for the Site the impact on biodiversity and protected habitat sites would be considered including possible effects upon the local water environment and nature reserve. |
| 35 | 20. Not a good financial decision | The financial considerations are addressed in the Cabinet report, which describes the capital and revenue benefits to the council. |
| 148 | 21. The land should remain public open space | See item 4 above and other paragraphs above regarding the preservation of current uses and site access. |
| 27 | 22. No public access for 35 years following the sale | The Heads of Terms refer to a permitted use throughout the lease term that prohibits residential accommodation (including student residences) and use for primary or |

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| | | secondary education. The site may only be used for tertiary education for 35 years. These terms do not mean that there will be no access for the purposes of the bowls club and skate park or for public movements over or around the Site in order to access the North Walls Park. The general permeability of the site will also be explored with the University as their masterplan is developed. |
| 6 | 23.No obligation to repair | See item 15. |
| 67 | 24.The Land is publicly owned and not for the Council to dispose of | See items 4 and 7. |
| 5 | 25.Reducing the size of the car park is detrimental to the public | The council will retain part of the car park (comprising 77 spaces). It is expected that displaced car park users will park elsewhere in the city centre and at Park & Ride facilities. |
| 42 | 26. Southampton University should not have the lease | See the Cabinet report for a description of the benefits to the city. |
| 35 | 27.Risk to the wider area which covers North Walls Recreation Ground, Hyde Abbey Garden and Hyde Gate, Winnall Moors | The disposal does not impinge on these areas and access is covered in other answers. |
| 1 | 28.The Council's Notice of a disposal of open space land is defective | The notice is in accordance with the statutory requirements. See further section 4 of the Cabinet report under the heading Open Space regarding the scope of the notices. |

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CAB3341

REPORT TITLE: KING GEORGE V (KGV) PAVILION FUNDING

CABINET - 9 MARCH 2022

WINCHESTER TOWN FORUM – 17 MARCH 2022

REPORT OF CABINET MEMBER: Cllr Kelsie Learney, Cabinet Member for Housing and Asset Management

Contact Officer: Susan Robbins Tel No: 01962 848 461 Email srobbins@winchester.go.uk

WARD(S): ALL

PURPOSE

The new pavilion at KGV has been considered for some years and has now reached an important milestone in seeing the scheme come to fruition. The new pavilion, adjacent to the new Winchester Sport and Leisure Park and the University of Winchester Sport Ground, will create a hub of high-quality, sports and community facilities. This replaces out-dated, underused and inaccessible pavilions with a larger, accessible, modern facility designed with sustainability and carbon saving measures that supports the development of grass roots football, especially women's, girls' and youth football. This is enhanced by the inclusion of a club room that can be used independently for community and social events and activities.

This report sets out the sport and community benefits and outcomes, associated design requirements and costs for the new development. This forms the final business case for the development of the KGV Pavilion and seeks approval for budget expenditure to enable officers to move to the next stage of inviting tenders for the construction works.

RECOMMENDATIONS:

That Cabinet:

1. Approve capital expenditure of up to £2,190,000 (bringing the total expenditure approved to £2.3m) for the construction of the new KGV Pavilion, subject to successful funding applications set out in Table 2 Project funding.
2. Agree 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. Agree £450,000 District Wide CIL funding, subject to the due diligence assessment and support of the application in April by the council's CIL Informal Panel.
4. Subject to approval of recommendations 1 and 2, and 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.

That the Winchester Town Forum:

5. Support the proposals for the new KGV pavilion, noting the additional £21,000 annual net costs that will need to be met from the Town Account with effect from 2023/24.
6. Approve an allocation of £250,000 from the Winchester Town Forum Neighbourhood Community Infrastructure Levy to support this project.

IMPLICATIONS:

1 COUNCIL PLAN OUTCOME

1.1 Tackling the Climate Emergency and Creating a Greener District

1.2 This new pavilion scheme, by providing a more energy efficient, local accessible community facility, contributes to the following climate emergency priorities:

- a) Winchester City Council to be carbon neutral by 2024
- b) The Winchester district to be carbon neutral by 2030
- c) An increase in the proportion of journeys taken by walking, cycling and public transport

1.3 Details of the environmental measures that will be incorporated into the design specification of the new building are set out in section 7 of this report. This includes both energy reduction and energy generation approaches. In addition to these 10% of the tender evaluation criteria will be allocated to environmental matters.

1.4 Living Well

1.5 There are three key health and wellbeing outcomes this project will directly contribute towards:

- a) Reduced health inequalities; by providing increased access to playing pitches.
- b) Access to a wide range of physical and cultural activities for all ages and abilities, leading to further development of and participation in women's and girls' football, youth football and cricket, and increasing use by local clubs.
- c) Increased use of the KGV park with attractive public facilities and green spaces including areas for relaxation and play, reconfigured pitches and an enhanced more accessible environment.

2 FINANCIAL IMPLICATIONS

2.1 The cost of construction for the new KGV Pavilion is estimated to be £2.3m, including professional fees and demolition of existing buildings. This is a pre-tender estimate calculated from the approved planning permission and undertaken by the project's cost consultants. A breakdown is given here:

Table 1. Project costs

| Build costs - Capital | £ |
|------------------------------|------------------|
| Construction | 2,020,000 |
| Professional fees | 120,000 |
| Legal costs | 2,000 |
| Contingency | 158,000 |
| Total project cost | 2,300,000 |

- 2.2 A capital budget of £1.4m had been approved of which £110,000 has been approved for expenditure on preliminary costs. This budget was increased by £900,000 to £2.3m in the Capital Investment Strategy 2022-2032 (CAB3332) to reflect the revised estimate above and this revision was approved by Council at its meeting on 23rd February 2022. Approval for expenditure against this revised budget is required to enable the tendering for quotes, selection of a supplier and to enter into contract to commence construction.
- 2.3 It is proposed that the capital costs are funded from the following sources subject to the successful application for CIL and external grant:

Table 2. Project funding sources

| KGV Pavilion funding sources | £000 | % contribution | status |
|-------------------------------------|--------------|-----------------------|---------------|
| Town Forum Sports Open Space fund | 228 | 9.9% | Approved |
| Town CIL | 250 | 10.9% | Applied for |
| District CIL | 450 | 19.6% | Applied for |
| Football Foundation grant | 500 | 21.7% | Applied for |
| Capital receipts | 872 | 37.9% | Approved |
| Total build cost | 2,300 | | |

- 2.4 Once the new pavilion is built the ongoing operational budget is estimated to be a net cost of £46.5k p.a. This operating deficit is funded by the Town Account and the estimated net position is broken down in the following table:

Table 3. Project revenue costs

| Ongoing revenue costs | Existing Budget | New Facility | Variance |
|--|-----------------|-----------------|-----------------|
| Utilities & Cleaning | £5,000 | £10,000 | -£5,000 |
| Revenue maintenance costs | £3,500 | £15,000 | -£11,500 |
| Grass pitch up-keep and maintenance | £34,000 | £34,000 | £0 |
| Green roof maintenance | £0 | £2,000 | -£2,000 |
| Major equipment replacement (spread over 30 year life) | £0 | £5,000 | -£5,000 |
| Total ongoing revenue | £42,500 | £64,000 | -£23,500 |
| Projected income | | | |
| KGV playing field hire | -£14,500 | -£14,500 | £0 |
| Pavilion hire | -£500 | -£3,000 | £2,500 |
| Total income | -£15,000 | -£17,500 | £2,500 |
| Net DEFICIT | £27,500 | £46,500 | -£21,000 |

- 2.5 An additional £50,000 per annum was included in the Town Account with effect from 2022/23 (WTF306 refers). The £21,000 net costs set out in the above table would be a call on this additional base budget provision with effect from 2023/24. The Pavilion offers potential for a more ambitious business plan and increased revenue generation which will be pursued through a new governance scheme to be set up in response to the external funding bid.

3 LEGAL AND PROCUREMENT IMPLICATIONS

- 3.1 To ensure best value a competitive procurement process for a design and build JCT contract in accordance with the council's Contract Procedure Rules will be undertaken through an open tender process. The Procurement Team will provide advice on this matter and ensure that the process is undertaken in accordance with the city council's Contract Procedure Rules and the Public Regulations 2015.
- 3.2 It is intended to use a standard design and build JCT contract which will be managed in accordance with the council's contract management framework.

4 WORKFORCE IMPLICATIONS

- 4.1 There are no additional workforce requirements associated with the pavilion development. Estates will provide client resources from within existing staffing and the Natural Environment & Recreation Team will provide support for engagement, communication and liaison with funding bodies, local clubs and community stakeholders from within existing staff resources.

- 4.2 Following completion of the new pavilion ongoing management and maintenance will be resources from exiting staffing with these two teams.

5 PROPERTY AND ASSET IMPLICATIONS

- 5.1 The new KGV Pavilion will be built on council owned land and will become a council owned asset with the council responsible for the ongoing maintenance. The proposed pavilion is to replace two existing council owned pavilions on the site and which will be demolished due to fact they have reach the end of their life, approval for which was given as part of the planning permission.

6 CONSULTATION AND COMMUNICATION

- 6.1 Public consultation has been carried out by the council's Natural Environment & Recreation Team about the use of KGV Playing Fields. The first was in 2018 and the most recent between February and March 2021. The aim of the consultation was to seek feedback on the council's proposals for improvement relation to:

- a) Site entrance
- b) Wider site
- c) Play area
- d) Skate park
- e) Pavilion

- 6.2 The following comments were received on proposals for an upgrade to the KGV pavilion:

- a) 54% of respondents currently used the existing pavilions, with a further 23% that would use the new facility.
- b) "Will be a great boost to all the players, parents and supporters who use KGV regularly"
- c) "Should be accessible to all park users for toilets and drinking water"
- d) "A well designated and well equipped pavilion would enhance KGV and the investment would also signify serious ongoing support for youth and specifically girls football"
- e) "The pavilion should be designed to merge into the environment using sensitive colour schemes."
- f) "Would like to hire for kids football parties"

- 6.3 Further consultation was undertaken by RW Sport consultants on behalf of the city council as part of the grant funding application to the Football Foundation. The consultation was carried out with eight existing user clubs and leagues, to gain their views on the current and proposed facilities, how

they use the facilities and what impact this has on their development and the growth of football in the local area. The following two questions and responses highlight the need for improved facilities:

- a) How would you like to access the new pavilion:
 - (i) 87.5 % - use of toilets on match day
 - (ii) 75% - use of changing rooms on match days
- b) What is preventing you accessing the existing pavilion
 - (i) 75% - toilets are poor quality
 - (ii) 62.5% - changing rooms are of poor quality

6.4 Winchester Town Forum at its 23 January 2020 meeting considered and recommended to support the approach to the provision of the pavilion at King George V recreation ground and the level of funding that could be made available to support the pavilion from Town Account reserves and/or, Town Forum Community Infrastructure Levy.

6.5 Winchester Town Forum established the King George V (KGV) Informal Group of officers and members to review progress on the project. The Town Forum received a report updating on progress at its 21 January 2021 meeting including details of consultation feedback and seeking approval for the Corporate Head of Assets to submit a planning application for the new pavilion. A further progress up-date was provided at the WTF meeting on 24 June 2021 when support was given for the submission of the planning application.

7 ENVIRONMENTAL CONSIDERATIONS

7.1 The Design and Access statement from Stride Treglown, that accompanied the permitted planning application, highlights that the design and construction of the new pavilion will “achieve an energy efficient and sustainable building through the use of ‘fabric first’ principles and a renewable energy source”. High performance insulation to the walls, floor and roofs will be specified, along with high performance double glazing for the windows, doors and curtain walling in order to limit heat loss and reduce solar gain. LED lighting is to be provided throughout the building and lighting controls and absence detectors will be considered to help further reduce energy consumption. There is a proposal for the use of photo voltaic panels which will be located on an area of flat roof on the eastern end of the building.

7.2 The planning permission Decision Notice (21/02789/FUL) also requires that:

“No development shall take place until a "BREEAM excellent" design stage certificate for the whole development is submitted to and approved in writing

by the Local Planning Authority. The development shall be built in accordance with the approved details.”

8 EQUALITY IMPACT ASSESSMENT

- 8.1 The existing pavilions do not meet the required standards for accessibility and is one of the drivers in the need for replacement. Accessibility forms part of the basic design brief for all new pavilions and the provisions of the Equality Act 2010 will be adhered with and Part M of the Building Regulations.
- 8.2 As progress on delivery of the new pavilion moves forward, the needs of individuals who fall within the protected groups defined in the Equality Act 2010 will be considered at each stage. The completed redevelopment will provide a positive benefit to all protected groups through improved design of buildings to increase accessibility by design.
- 8.3 Consultation and engagement have not given rise to representations that there will be adverse effects from the proposed development on protected groups.
- 8.4 Due regard has been given to the council’s duties as set out above and an EqlA has been completed. The decision to be taken in this report is considered to contribute towards advancing equality of opportunity and is consistent generally with the public sector equalities duty and its objectives.

9 DATA PROTECTION IMPACT ASSESSMENT

- 9.1 There are no data protection impacts associated with the development of the pavilion. However the management of the booking system for hire of the pavilion and the pitches must meet GDPR standards as this will requires personal and financial information about people hiring the facilities.

10 RISK MANAGEMENT

- 10.1 This scheme is in line with the council’s current overall and Living Well priority risk appetite of moderate.

| Risk | Mitigation | Opportunities |
|---|---|---|
| Financial Exposure Construction costs escalate. Management and maintenance cost increase Income is not achieved | Pre-tender estimates have been completed based on the permitted development to ensure tendering exercise is based on current values. Seeking to commencing tendering and | The pavilion and reconfigured pitches create a high quality facility for the wider community that can be used for an increased range of activities and more frequently. |

| | | |
|---|--|---|
| | <p>construction early mitigates against inflation and price increase caused by any delays.</p> <p>Proactive contract management with a collaborative approach to mitigate risks limits financial exposure.</p> <p>A new pavilion has more efficient and cost efficient systems (e.g. energy efficiency) to reduce costs and maintenance.</p> <p>Enhanced facilities increase the potential to generate income from a wider range of activities and users</p> | |
| <p>Exposure to challenge Opposition to development Challenge to tendering and appointment of contractor</p> | <p>Extensive consultation and local engagement has taken place to mitigate concerns over the new scheme.</p> <p>Planning permission has been secured.</p> <p>All tendering will be compliant with the council's contract procedure rules and contract management procedures, supported by the council's procurement team</p> | |
| <p>Innovation Effective working in partnership with users and stakeholders takes time to development and reach a position of trust and genuine joint working</p> | <p>Partnership Management Guidance has been created by the Council that can be used to ensure that any partnership arrangement is established and supported in line with council policy and procedure drawing on best practice.</p> | <p>Engage with community and stakeholders in the long-term running and development of the operation of the pavilion to optimise its contribution to physical and mental well being.</p> |
| <p>Reputation</p> | <p>Extensive pre-</p> | |

| | | |
|--|--|---|
| <p>Negative response to new scheme not progressing Damage to relationship with Football Foundation who have invested in bringing the scheme forward Local clubs and users feel unsupported if opportunity to expand and develop is not provided by new facilities</p> | <p>development concept, design and project preparation has taken place to ensure the scheme is deliverable and supported. Planning permission has been given. Budget allocation has been identified.</p> | |
| <p>Achievement of outcome Failure to increase:</p> <ul style="list-style-type: none"> • participation in physical activity and health improvements • female participation in football. • participation in sport by under-represented groups and wider demographic • clubs development | <p>A steering group of partners, stakeholders and users will be established to advise on effective management and support ways to ensure outcomes are achieved.</p> | <p>A collaborative approach to working with users and local clubs and stakeholder to make the most of this community facility and to create a sense of ownership in its success and future.</p> |
| <p>Property Exiting dilapidated pavilions fall into further disrepair and attract vandalism. Cost of up-keep and frequency of repair increases.</p> | <p>New facility will replace the existing pavilions. Demolition is part of the construction estimate so will be the first step at commencement of construction</p> | |
| <p>Community Support Lack of support for scheme and negative reaction / impact on local area during construction phases.</p> | <p>Extensive consultation has already taken place and communication and sharing information will continue to keep local residents and stakeholders involved.</p> | <p>New governance for the management of the pavilion is to be established to include stakeholders.</p> |

| | | |
|---|---|--|
| <p>Timescales Delays to tendering and build due to supply chain and demand pressures within the construction industry</p> | <p>Seeking early approvals and making sure all the necessary governance is undertaken allows the project to be expedited as soon as the various funding elements have been agreed</p> <p>A collaborative approach to contract management will be supportive in reducing delays.</p> | |
| <p>Project capacity Availability and capacity of staff to client and contract manage the construction of the new pavilion</p> <p>Availability and capacity of staff to manage the operation and use of the new pavilion and associated pitches</p> | <p>Estate team are experienced and have systems in place to effectively manage contract of this value and (low) level complexity</p> | |

11 SUPPORTING INFORMATION:

11.1 **Background**

11.2 Need

11.3 The project was identified within the council's adopted Playing Pitch Strategy 2018, which states that there "a need to mitigate the loss of playing field land through the improvement and upgrade of ancillary provision at King George V Playing Fields (to the latest FA specifications) which should include both changing facilities and toilets. Additionally, pitch improvements should be made to the site to increase capacity of pitches for match play". The requirement for investment into the facility is also identified within Hampshire FA's Winchester Local Football Facilities Plan. The LFFP highlights that investment is required for the refurbishment of the changing pavilions.

11.4 The options for the development of a new pavilion on the KGV playing fields was first considered at Winchester Town Forum in early 2020 as the existing pavilions are no longer fit for purpose.

11.5 The existing two pavilions do not provide adequate or accessible changing facilities and do not meet safeguarding standards. They were constructed in the 1960s and are now not fit for purpose and beyond viable improvement. The lack of appropriate facilities restricts the use of the playing fields and this issue has been identified through the public and club consultations concerning the future use of the site and pavilions.

11.6 **Details of the new pavilion**

11.7 Users

11.8 The new pavilion, and associated increased use of pitches, will support the development of grassroots football and especially outcomes for women and girls, youth football & open age football. The majority of the clubs that utilise KGV are based in the city or from the surrounding parishes. The key users of the site will be Winchester City Flyers, who play in the Hampshire Girls Youth Football League; Winchester Youth FC and Littleton Junior FC will also use the site as overspill. During the week the site is also used by the University of Winchester. In terms of senior football the Winchester & District Sunday League regularly book the site and over the summer the two cricket pitches are used by local clubs. The pitches are well-used; the Girls League hosts approx. 20 teams a weekend; Littleton FC three; Winchester Youth 4; University three teams every Wednesday; plus approximately 10 individual local teams.

11.9 The neighbouring Winchester Sport & Leisure Park means this area is a hub for community sport and physical activity in Winchester, providing a mix of community spaces and high quality sporting facilities. This fits well with other users on the site at the play area and skate park.

11.10 Benefits and Outcomes

11.11 The aims and objectives for this project have been identified following extensive community and club consultation and are as follows:

- a) Increased participation for all.
Ensure that there is a wide, diverse football offer to meet the needs of the local area and provide the platform for local clubs and the wider football community to grow and develop.
- b) Pricing should not be prohibitive and will be comparable with other local facilities.
St Michael Ward, where the site is located, is ranked within the 50% most deprived neighbourhoods in the country and often lower socio-economic groups also have health inequalities. With rising costs of living the amount people's disposable income that can be spent on leisure activities has reduced and so it is important that this facility offers good value for money.

- c) Improved health and wellbeing through an enhanced and diverse physical activity and social community offer.
By providing high quality facilities, increased community sport outcomes can be achieved across a varied demographic. As well as improving both physical and mental health there is the opportunity to build skills, education and training. It is hoped that the new pavilion will become a social hub for the local area that will enable many other positive community outcomes.

11.12 Costs and design

11.13 The initial cost estimate of £1.4m in January 2021 whilst prepared based on planning drawings and forecasted to the anticipated build date, the material and labour market continues to rise more significantly than could have been reasonably anticipated. Now more detailed design has been completed the following comments can be provided to support the increase to the construction costs and additional requirements for BREEAM:

- Steel prices have increased and a canopy area is now included – increase of £40k;
- Now have an extra over green roof system and additional areas of solar panels compared to a standard flat roof previously – increase of £60k;
- Additional external staircase and an increase in balustrading to the terrace area – increase of £20k;
- Allowed for external lighting to the access track - increase of £20k;
- The number of water installations such as WC's, showers etc. has increased from 79 to 130 - increase of £40k;
- Initially external works focused on making good the existing access track but now there are large areas of additional paving / car parking and landscaping – increase of £150k;

11.14 As stated there has been considerable inflationary pressures during the last year and the previous cost estimate had a start date of the second quarter 2021, the revised cost estimate start date is third quarter 2022 with rates at present value.

11.15 The council set the key design requirements of the new pavilion has to meet as the following:

- a) Sport England compliant changing facilities
- b) A club/community room with kitchen
- c) A first floor viewing gallery or balcony with views of the pitches
- d) A building which is contemporary and attractive in appearance, and sensitive to its context within the South Downs National Park
- e) A design which is considerate of the allotments to the north of the site, and any impact the new facility may have on the allotments and their aspect
- f) A safe, robust and durable building

- g) A building suitable for use by a diverse range of abilities, ages and preferences

11.16 The new pavilion will provide 540sqm of changing and toilet facilities to support the football and cricket pitches and at first floor level there will be a club room with a balcony which overlooks the pitches. This new facility provide an additional 292sqm of useable space. Also the club room, with its own toilets and kitchenette has been designed to be self-contained and capable of use and hire separate from the changing facilities. There will also be two new disabled car parking space and eight cycle racks.

11.17 Funding

11.18 The KVG Pavilion secured planning permission on December 2021 and an application for £500,000 grant funding was submitted to the Football Foundation in January 2022; outcome to be known in April. Applications for district and neighbourhood CIL totalling £700,000 are being made. Approval of these will be required prior to commencing to tendering stage.

11.19 The development proposals have progressed significantly to reach this stage, therefore approval to move to the construction contract tendering stage is sought from Cabinet. In order to enable the tendering process to commence as soon as all funding is secured authority to incur expenditure is also sought from Cabinet. This will be subject to the securing of all required funding.

11.20 The proposed programme for the next stages is:

- | | | |
|----|---------------------------------|--------------------|
| a) | Funding & expenditure approvals | March - April 2022 |
| b) | Tender exercise | April – June 2022 |
| c) | Construction commences | July 2022 |
| d) | Construction completes | April 2023 |

12 OTHER OPTIONS CONSIDERED AND REJECTED

12.1 Do not replace the existing pavilions: This was rejected as both facilities are considered to be beyond their useful life, do not provide appropriate disabled access and have very poor thermal efficiency. Cost of continued repair and maintenance does not represent value for money and also impacts on the council's ability generate income from bookings for the playing pitches.

12.2 Replace both pavilions like for like: this was rejected as being more costly than replacement with a single larger facility, with efficiencies also gained in on-going management and maintenance.

12.3 Replace both pavilions with a smaller new facility: this was rejected as a smaller facility would not provide the accessible range of changing rooms, showers and toilets etc. to meet football association standards to support the

league football clubs or cricket clubs' use. The addition of a club room enables a more ambitious business plan to increase income generation and open up the pavilion for use by a wider range of people.

BACKGROUND DOCUMENTS:-

Previous Committee Reports:-

WTF298: REPORT TITLE: NORTH WALLS AND KING GEORGE V SPORTS PAVILIONS UPDATE REPORT 24 JUNE 2021

WTF295: REPORT TITLE: NORTH WALLS AND KING GEORGE V SPORTS PAVILIONS UPDATE REPORT; 28 JANUARY 2021

WTF278: REPORT TITLE: NORTH WALLS AND KING GEORGE V SPORTS PAVILIONS UPDATE REPORT: 23 JANUARY 2020

Other Background Documents:-

Community consultation at KGV, Feedback in relation to the pavilion 2018

Planning application: 21/02789/FUL | Proposed demolition of two existing pavilions. Replacement with one new build pavilion and associated car parking.

<https://planningapps.winchester.gov.uk/online-applications/applicationDetails.do?keyVal=R1QCRBBP11200&activeTab=summary>

APPENDICES:

Appendix 1 - Equality Impact Assessment

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Winchester City Council

Equality Impact Assessment Template (EqIA)

Section 1 - Data Checklist

When undertaking an EqIA for your policy or project, it is important that you take into consideration everything which is associated with the policy or project that is being assessed.

The checklist below is to help you sense check your policy or project before you move to Section 2.

| | | Yes/No | Please provide details |
|---|---|--------|--|
| 1 | Have there been any complaints data related to the policy or project you are looking to implement? | NO | |
| 2 | Have all officers who will be responsible for implementing the policy or project been consulted, and given the opportunity to raise concerns about the way the policy or function has or will be implemented? | YES | Engagement with officers in legal, procurement and finance has taken place. Planning permission has also be secured for the development which involved further statutory and not statutorily consultees. |
| 3 | Have previous consultations highlighted any concerns about the policy or project from an equality impact perspective? | NO | Public consultation on the new pavilion scheme has been positive – some objections were raised to the planning application but these related to the sustainability measures of the building. |
| 4 | Do you have any concerns regarding the implementation of this policy or project? <i>(i.e. Have you completed a self-assessment and action plan for the implementation of your policy or project?)</i> | NO | |
| 5 | Does any accessible data regarding the area which your work will address identify any areas of | NO | |

| | | Yes/No | Please provide details |
|---|---|--------|---|
| | concern or potential problems which may impact on your policy or project? | | |
| 6 | Do you have any past experience delivering similar policies or projects which may inform the implementation of your scheme from an equality impact point of view? | YES | This is a construction project that Estate Team has extensive experience of completing. The operation and management of the new pavilion facility will fall to the NERT Team which again has extensive experience running this type of facility. |
| 7 | Are there any other issues that you think will be relevant? | NO | |

Section 2 - Your EqIA form

| | | | | |
|---------------------|---------------------------|--------------|---|----------------------------|
| Directorate: | Your Service Area: | Team: | Officer responsible for this assessment: | Date of assessment: |
|---------------------|---------------------------|--------------|---|----------------------------|

| | Question | Please provide details |
|---|---|--|
| 1 | What is the name of the policy or project that is being assessed? | King George V Pavilion |
| 2 | Is this a new or existing policy? | Replacement of two existing old facilities with a new larger pavilion |
| 3 | Briefly describe the aim and purpose of this work. | To provide modern, efficient, fit for purpose changing and club room facilities to support the use of the KGV football and cricket pitches. |
| 4 | What are the associated objectives of this work? | The new pavilion will provide accessible changing rooms, enable the development of girls and women's football and increase use by junior football clubs and disability cricket |
| 5 | Who is intended to benefit from this work and in what way? | The KGV football and cricket pitches are well-used facilities: the Girls League hosts approx. 20 teams a weekend, Littleton FC 3, Winchester Youth 4, University 3 teams every Wednesday plus approx. 10 individual teams. |
| 6 | What are the outcomes sought from this work? | Increase participation in sport and physical activity from a diverse range of people. To grow and develop grass-roots club football, especially for girls and women To create a multi-sport and community hub facility |
| 7 | What factors/forces could contribute or detract from the | Lack of community support will detract from the success of |

| | | |
|---|--|--|
| | outcomes? | the pavilion. Lack of take up of the facilities could mean the diversity of people using the new pavilion is not achieved. |
| 8 | Who are the key individuals and organisations responsible for the implementation of this work? | Winchester City Council and Winchester Town Forum. Estate Team will lead the construction of the new facility NERT will be responsible for overseeing the ongoing the operation and management of the pavilion and pitches |
| 9 | Who implements the policy or project and who or what is responsible for it? | As above |

| | | | | |
|-----|---|--|----------|--|
| | | Please select your answer in bold . Please provide detail here. | | |
| 10a | Could the policy or project have the potential to affect individuals or communities on the basis of race differently in a negative way? | Y | N | |
| 10b | What existing evidence (either presumed or otherwise) do you have for this? | | | |
| 11a | Could the policy or project have the potential to affect individuals or communities on the basis of sex differently in a negative way? | Y | N | |
| 11b | What existing evidence (either presumed or otherwise) do you have for this? | Community impact assessment completed along with review of existing hirers | | |
| 12a | <p>Could the policy or project have the potential to affect individuals or communities on the basis of disability differently in a negative way?</p> <p><i>you may wish to consider:</i></p> <ul style="list-style-type: none"> • <i>Physical access</i> • <i>Format of information</i> • <i>Time of interview or consultation event</i> | Y | N | |

| | | | | |
|-----|---|---|----------|--|
| | <ul style="list-style-type: none"> • <i>Personal assistance</i> • <i>Interpreter</i> • <i>Induction loop system</i> • <i>Independent living equipment</i> • <i>Content of interview)</i> | | | |
| 12b | What existing evidence (either presumed or otherwise) do you have for this? | | | |
| 13a | Could the policy or project have the potential to affect individuals or communities on the basis of sexual orientation differently in a negative way? | Y | N | |
| 13b | What existing evidence (either presumed or otherwise) do you have for this? | | | |
| 14a | Could the policy or project have the potential to affect individuals on the basis of age differently in a negative way? | Y | N | |
| 14b | What existing evidence (either presumed or otherwise) do you have for this? | | | |
| 15a | Could the policy or project have the potential to affect individuals or communities on the basis of religious belief differently in a negative way? | Y | N | |
| 15b | What existing evidence (either presumed or otherwise) do you have for this? | | | |
| 16a | Could this policy or project have the potential to affect individuals on the basis of gender reassignment differently in a negative way? | Y | N | |
| 16b | What existing evidence (either presumed or otherwise) do you have for this? | | | |
| 17a | Could this policy or project have the potential to affect individuals on the basis of marriage and civil partnership differently in a negative way? | Y | N | |
| 17b | What existing evidence (either presumed or otherwise) do | | | |

| | | | | |
|-----|--|---|---|--|
| | you have for this? | | | |
| 18a | Could this policy or project have the potential to affect individuals on the basis of pregnancy and maternity differently in a negative way? | Y | N | |
| 18b | What existing evidence (either presumed or otherwise) do you have for this? | | | |

| | | | | |
|----|--|---|---|---------------------------------|
| 19 | Could any negative impacts that you identified in questions 10a to 15b create the potential for the policy to discriminate against certain groups on the basis of protected characteristics? | Y | N | |
| 20 | Can this negative impact be justified on the grounds of promoting equality of opportunity for certain groups on the basis of protected characteristics? Please provide your answer opposite against the relevant protected characteristic. | Y | N | Race: |
| | | | | Sex: |
| | | | | Disability: |
| | | | | Sexual orientation: |
| | | | | Age: |
| | | | | Gender reassignment: |
| | | | | Pregnancy and maternity: |
| | | | | Marriage and civil partnership: |
| | | | | Religious belief: |
| 21 | How will you mitigate any potential discrimination that may be brought about by your policy or project that you have identified above? | . | | |
| 22 | Do any negative impacts that you have identified above impact on your service plan? | Y | N | |

| | |
|------------------------------|---------------|
| Signed by completing officer | Susan Robbins |
| Signed by Service Lead or | |

| | |
|---------------------------|--|
| Corporate Head of Service | |
|---------------------------|--|

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CAB3337
CABINET

REPORT TITLE: WCC LANDSCAPE CHARACTER ASSESSMENT
SUPPLEMENTARY PLANNING DOCUMENT

9 MARCH 2022

REPORT OF CABINET MEMBER: Cllr Russell Gordon-Smith Cabinet Member for
Built Environment

Contact Officer: Katie Morgans Tel No: 01962 848 069

Email: kmorgans@winchester.gov.uk

WARD(S)/PARISH(ES): ALL

PURPOSE:

This report recommends the adoption of the up-dated Landscape Character Assessment as a Supplementary Planning Document.

Landscape Character Assessments are produced by local authorities to identify and explain the unique combination of elements and features that make landscapes distinctive by mapping and describing character types and areas. They also show how the landscape is perceived, experienced, and valued by people. For these documents to carry as much weight as possible in the planning decision-making process they need to be adopted by the City Council as 'Supplementary Planning Documents' (SPD).

A draft version of the Landscape Character Assessment (LCA) was published for public consultation between 10 January 2022 until 21 February 2022 following agreement by Cabinet on 8th December (CAB3321). This report summarises the comments received following consultation on the draft version of the LCA and recommends adoption of the document in its revised form.

These post consultation revisions are outlined in the schedule of comments and recommended responses in Appendix A and which are included where possible in the post-consultation version presented in Appendix B.

RECOMMENDATIONS:

That Cabinet:

1. Note the public consultation responses as set out in Appendix A.
2. Adopt the proposed Landscape Character Assessment Supplementary Planning Document, as set out within Appendix B, subject to necessary minor amendments.
3. Delegate authority to Strategic Director Place, in consultation with Cabinet Member Built Environment, to make final minor amendments to the Supplementary Planning Document prior to adoption.

IMPLICATIONS:**1 COUNCIL PLAN OUTCOME****1.1 Tackling the Climate Emergency and Creating a Greener District**

The adoption of a Landscape Character Assessment Supplementary Planning Document (LCA SPD) seeks to clearly set out the council's requirements regarding the protection of our heritage and natural environment by safeguarding our district's extensive natural habitats and precious ecosystems through a comprehensive assessment of the character of the district outside of the South Downs National Park.

1.2 Living Well

In adopting a LCA SPD, the City Council will be setting out clear information including key issues relating to the numerous character areas within the district and how development would impact both the immediate and wider landscape. This is of valuable use to both developers seeking to build within the district outside the National Park and council officers assessing the impact of proposed development.

2 FINANCIAL IMPLICATIONS

2.1 The drafting of the proposed LCA SPD has already been funded through the Local Plan budget using both internal and external expertise.

2.2 Subject to the findings of this consultation, and where comments are received which need to be addressed in a revised document, the LCA SPD will then be adopted. There will be no further additional financial burdens arising from its publication.

3 LEGAL AND PROCUREMENT IMPLICATIONS

- 3.1 The Landscape Character Assessment is a supplementary planning document, and therefore a non-statutory plan seeking to protect the natural environment and provide a degree of certainty to developers and council officers assessing the impact of proposed development. Part 2 of the Planning and Compulsory Purchase Act 2004 provides for the preparation of Local Development Documents (LDDs), including those which do not form part of the statutory development plan and are consequently described as Supplementary Planning Documents (SPDs).
- 3.2 The adoption of the Landscape Character Assessment SPD is intended to support the delivery of the council's emerging Local Plan, and will form part of the evidence base, as well as being used to assess planning applications as part of the development management decision making process.
- 3.3 There are no procurement implications as a result of the recommendations in this report.

4 WORKFORCE IMPLICATIONS

- 4.1 The public consultation exercise was delivered from existing resources including the Strategic Planning Service and the Natural Environment and Recreation Team alongside the already commissioned landscape consultancy – The Terra Firma Consultancy Ltd. This was funded from the Local Plan budget.
- 4.2 Once this LCA SPD is adopted, subject to any amendments post consultation, it will become a material consideration when planning applications are decided. Although landscape impact is already assessed as part of development applications, this new LCA SPD provides an up-to-date framework that helps to inform assessment of development proposals at all levels in the district of Winchester and assists developers in conducting a detailed analysis from which bespoke mitigations for their schemes can be offered.
- 4.3 This LCA SPD will therefore assist not add to the workload of officers.

5 PROPERTY AND ASSET IMPLICATIONS

- 5.1 This LCA SPD will affect all new developments, including those undertaken by the City Council. However, it is expected that the council would, as a responsible developer, want to mitigate its own impacts on the landscape in line with the Council Plan and ensure that its schemes respond positively to their setting.

6 CONSULTATION AND COMMUNICATION

- 6.1 The need for the LCA SPD already exists. The current LCA (published 2004) was adopted as a SPD and this updated document should have the same status so it carries the same weight when planning applications are decided.
- 6.2 The draft LCA SPD was delivered by The Terra Firma Consultancy Ltd based upon its experience of delivering similar documents in other local authority areas.
- 6.3 The LCA SPD in Appendix B is the final iteration after various meetings between The Terra Firma Consultancy Ltd, the Natural Environment and Recreation Team, Parish and Ward Councillors (11.8.21) Strategic Planning, Development Management and Cabinet members (21.9.21) which has helped refine the document which was consulted on via the Citizenspace online consultation portal between 10 January 2022 to 21 February 2022. Further publicity regarding the consultation was carried out by including an item in the Parish Connect newsletter, advance email to all parishes and wards alerting them to the consultation and promotion on the city council's website and twitter feeds.
- 6.4 The Council received 14 consultation responses. These responses are captured in Appendix A.
- 6.5 Meetings/presentations held to date:
- A presentation of the LCA was made by The Terra Firma Consultancy Ltd and the Natural Environment and Recreation Team to Parish and Ward Councillors on 11.8.21
 - The LCA was introduced to Cabinet members on 21.9.21
 - The LCA was discussed at the 24.11.21 Local Plan Advisory Group (LPAG) meeting. The following outcomes were agreed:
 - A full copy of the LCA was subsequently sent electronically to members of LPAG
 - All parishes and Town Forum were notified on 10.12.21 via email that a consultation period would be starting on 10th January 2022.
 - It was confirmed to LPAG that the update of the LCA was not just a desktop exercise. Terra Firma Consultancy undertook numerous site visits. This is stated within the LCA (page 6).

7 ENVIRONMENTAL CONSIDERATIONS

- 7.1 This LCA SPD is a vital component in ensuring that the cumulative impact of development on the landscape is fully considered now and in the future. It provides developers with detailed information on the character of the landscape in and around their site, key issues to be mindful of and landscape features that must be considered and protected to ensure the landscape character is not adversely impacted significantly. It is an important document

therefore in the determination of development proposals by the council and when developing its own schemes.

8 **EQUALITY IMPACT ASSESSEMENT**

8.1 The public consultation was undertaken to ensure that all groups within the community had an opportunity to have their say, and to ensure not to and in a manner which encourages equality of opportunity to consult by reaching out to the relevant stakeholders and the public.

8.2 The decision requested in the recommendations of this report is to adopt the LCA SPD which informs all sectors of the community of the landscape characteristics of areas.

8.3 An Equalities Impact Assessment (EqIA) has been undertaken and is appended to this report (Appendix C). The assessment found that adoption of the LCA SPD to bring positive benefits to all sectors of our community.

9 **DATA PROTECTION IMPACT ASSESSMENT**

9.1 Any comments that are submitted will be considered but must include people's name and contact details. The council will publish names and associated representations on its website, but it will not publish personal information such as telephone numbers, postal addresses or email addresses.

9.2 In accordance with the General Data Protection Regulations (GDPR) information will only be kept for the necessary period required. The Council has an updated privacy policy which can be viewed on the website.

10 **RISK MANAGEMENT**

| Risk | Mitigation | Opportunities |
|---|---|----------------------|
| <i>Financial Exposure</i> <i>The delivery of the consultation will be from existing staff resources.</i> | None required | |
| <i>Exposure to challenge</i> <i>That the adoption of the LCA SPD consultation will be subject to legal challenge.</i> | The correct procedures leading to adoption of the SPD have been followed leading to a robust document which should minimise the risk of successful challenge. | |
| <i>Innovation</i> N/A | N/A | N/A |
| <i>Reputation</i> | | |

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| <i>That failure to adopt a new LCA SPD could lead to the importance of landscape matters in the decision-making process for development proposals reducing over time</i> | The Winchester district remains an attractive place to live and work and this will be supported by the LCA SPD which will help to maintain high environmental standards for the future when development proposals are determined. | In adopting this LCA SPD Winchester will be one of the few authorities that has ensured its LCA is kept up to date. |
| Achievement of outcome N/A | N/A | N/A |
| Property N/A | N/A | N/A |
| Community Support <i>That the adoption of the LCA SPD is not supported.</i> | The public consultation process allowed officers to understand and consider the various stakeholder interests and responses and these can be addressed as appropriate in the final document. These will have been included in Appendix A. | To work with stakeholders to assist in the delivery of a workable LCA SPD which still delivers an assessment of the district's landscape character following the methodology guidelines published by Natural England in 2014 |
| Timescales N/A | N/A | N/A |
| Project capacity <i>That staff capacity is insufficient to deliver the consultation and final document for adoption in a timely fashion.</i> | Sufficient resources to be provided by Strategic Planning, Natural Environment and Recreation and the commissioned landscape consultancy | |
| Other N/A | N/A | N/A |

11 SUPPORTING INFORMATION

Background

- 11.1 Winchester District Council currently has an adopted Landscape Character Assessment (2004) which is used frequently in providing detailed landscape

responses to planning applications and in supporting the local plan with landscape sensitivity assessments of the allocated sites (SHELAA). Although still a sound document it now needs to reflect changes in the landscape because of the implementation of the Major Development Areas and the creation of the South Downs National Park (SDNP) which have taken place over the last 17 years.

- 11.2 The LCA SPD as set out in Appendix B, is the culmination of Terra Firma's work supported by the Natural Environment and Recreation Team, Development Management, Strategic Planning and relevant Cabinet members in an effort to ensure that the LCA SPD will provide sound landscape character evidence to support both the existing and emerging Local Plan and development management in their assessment of planning applications, appeals and enforcement cases.

Details of Proposal

- 11.3 A Landscape Character Assessment is a document which is used to inform policy development, including local, neighbourhood, community or parish plans, and place-making documents as well as decision making on development proposals. It contains information and guidance on green infrastructure plans and strategies, waterways strategies, design briefs, project design and master planning, landscape impact and visual impact assessments (often as part of an Environmental Impact Assessment). It can assist with sensitivity and capacity studies too and landscape designations including National Park and Area of Outstanding Natural Beauty.
- 11.4 The LCA needs updating as the current version, although still a sound and well used document, does not consider changes in the district's landscape which have occurred over the last 17 years that affects character such as the building out of Major Development Areas (MDAs) allocated in the adopted Local Plan, renewable energy developments e.g. solar farms and the creation of the SDNP. These must be reflected in the updated LCA and where necessary character areas amended.
- 11.5 The LCA SPD will provide supporting evidence and documentation for both the new Local Plan and for use in providing planning responses and determination of development proposals being considered under the existing plan.
- 11.6 The LCA SPD supplements Local Plan policies CP7, CP15 and CP18-20 and is intended to provide developers and planners with an understanding of the landscape character areas and types within the district in order that landscape impacts can be comprehensively assessed, and impact of development schemes mitigated for if necessary. It adopts a practical and proportionate approach which doesn't present unnecessary burdens upon developers that may delay the planning application decision making process. Indeed, it should help to facilitate timely decision making

- 11.7 It is designed to be a document which is easily understandable for both developers and planning officers and which complements the current planning process and Local Plan policies that deal with landscape character. The LCA SPD will potentially need to be updated again when the new Local Plan is adopted in 2024.
- 12.8 The methodology being used to update the Landscape Character Assessment is the October 2014 methodology developed by Natural England – [An approach to Landscape Character Assessment so is consistent with national guidance.](#)
- 12.9 All developments within the district outside the SDNP must review and assess the LCA SPD as part of their submissions.
- 12.10 Where a development is found to have a significant effect on the landscape character then it will only be permitted if suitable and sufficient mitigation is provided as part of the development proposal.
- 12.11 The consultation for the adoption of the LCA as an SPD was held between 10th January and 21st February 2022 via CitizenSpace. It was advertised in the Parish Connect, all parishes and wards were emailed prior to the start to advise of the up-and-coming consultation and the Local Plan database was used to advise members of the public and statutory consultees of the online consultation. A paper version was made available in the city office reception.
- 14 comments were received as shown in Appendix A with minor points to be incorporated

Conclusion

- 12.12 It is considered that the LCA SPD builds on the policies in the adopted Local Plan and provides a robust approach intended to mitigate pressures on changes to the landscape character arising from future developments and will also help to support the development of policies in the new plan.

13 OTHER OPTIONS CONSIDERED AND REJECTED

- 13.1 The option of updating the existing Landscape Character Assessment, but not affording it the additional planning weight that a SPD would provide, was an option considered. This was rejected as LCAs are vital in informing planning decisions and more weight can be given to a new document which has been through the SPD process before being formally adopted by the council.

GLOSSARY OF ACRONYMS

The following provides a short glossary of acronyms used in this report:

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| LCA SPD | Landscape Character Assessment Supplementary Planning Document. The planning document used for public consultation. |
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BACKGROUND DOCUMENTS:

- [Landscape Character Assessment \(2004\)](#)

Other Background Documents:

- Previous Cabinet Report – [8.12.21](#)

APPENDICES:

- Appendix A (See attached) Schedule of comments and recommended responses from consultation. This has been fully updated and the recommended changes will be incorporated in the final version of the LCA to be published by end of March 2022.
- Appendix B [Landscape Character Assessment Supplementary Planning Document \(2021\)](#) Document and Appendices can be found at bottom of webpage
- Appendix C (See attached) Equality Impact Assessment (EqIA)

APPENDIX A:**Landscape Character Assessment Summary of responses received to draft LCA and recommended amendments**

| | Comments and name of statutory consultees where known | Recommended Response |
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| 1. | <p>Newtown & Soberton Community Group (response extracted from email 5.1.22 prior to start of consultation period)</p> <ul style="list-style-type: none"> • Pg 89: Newtown and the surrounding land should be marked as Clay River Valley as there are a number of properties that the river flows through: The Grange, Flintstones, Meadowbrook, Otterton, Claverton, Brookside, Mossleigh to mention those on Church Road and Ingoldfield Lane and then there are two properties further downstream at Martin's Corner. • Figure 11: Non-inclusion of the village Newtown. • Pg 217: Looking at the key issues for the Forest of Bere Lowlands on the subject of artificial light, the impact of this on the SDNP should be recognised, (especially in Ingoldfield lane and surrounding area not just Dradfield Lane but also the many floodlit horse training arenas which appear to be springing up everywhere.) • There is no reference to the community of HoeGate other than the reference of HoeGate Common • There should be reference to the importance of natural ponds in both the areas Forest of Bere Lowlands and Upper Meon Valley areas of which there are many so large and others that are seasonal. Soberton Heath Pond is an important character and feature of the community. • Pg 215: No mention of Newtown this is a | <ul style="list-style-type: none"> • Recommended Change – None The current LCA assessed Wickham as the only settlement that belongs in the Clay River Valley Settlement Type. Newtown lies adjacent to SDNP which assess the character around Newtown as Wooded Claylands, Downland and Chalk Valley Systems • Recommended Change – None Newtown is included on Figure 11 • Pg 207: Recommended Change – Insert comment about potential to impact the SDNP • Recommended Change - None Hoegate Common is mentioned as it is a SINC. Not every community has been identified by name • Recommended Change - Insert reference to natural ponds in the 2 areas identified LCA18 and LCA16 |

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| | <p>separate village should be referenced. It is in the river valley of the Wallington with a network of ditches that all feed into the river. The road frontage development as a character and the open views across the low-lying landscape everywhere.)</p> <ul style="list-style-type: none"> Regarding hedges and wildlife, a further point of concern is the unregulated replacement or duplication of hedges by panel fencing effecting character of the settlements and the migration of wildlife. | <ul style="list-style-type: none"> Pg 205: Recommended Change - Insert Newtown to settlements paragraph Pg 207: Recommended Change - Insert this point as a key issue |
| <p>2.</p> | <ul style="list-style-type: none"> Try hard to resist building on the green fields | |
| <p>3.</p> | <ul style="list-style-type: none"> It is acknowledged that the aim of the Landscape Character Assessment Supplementary Planning Document (SPD) is to promote regard for the landscape and to ensure new development makes a positive contribution to the landscape, including its key characteristics and features in which it is located. It should also be acknowledged that protecting these features in future developments also delivers Public Health benefit, from providing access to green and blue space, opportunities for physical activity, leisure and active travel. Where future Design Guides or SPD's for localities described in the Landscape Character Assessment SPD are created then these should extend beyond the physical appearance of buildings and materials and beyond baseline compliance with the Local Plan but set expectations for opportunities to protect and enhance Public Health. For example, Planners should promote, and developers should seek to achieve, greater connectivity between and within communities, to promote active travel and leisure, and to mitigate developmental impacts on matters such as local air quality and Climate Change impacts on the health of communities and the integrity of landscapes identified in this SPD. | <ul style="list-style-type: none"> Recommended Change – To add wording on health and well-being to intro and/or expand on existing wording |
| <p>4.</p> | <ul style="list-style-type: none"> "I would like to put forward 2 arable fields for special recognition. These are on Springvale Road in Kings Worthy, opposite the bottom of Nations Hill, & bisected by the road to Woodhams Farm. I believe these to be significant to the character of Kings Worthy. The fields have long been a place of recreation for local people, dog walkers, | <ul style="list-style-type: none"> Recommended Change – None KWPC to consider inclusion in Village Design Statement/ Neighbourhood Plan |

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| | <p>walkers, runners, cyclists, horse riders, & even the toddlers at the Woodhams Farm nursery.</p> <p>More importantly though is the special character they give to Kings Worthy. The feeling you get travelling down Nations Hill looking into the fields, it really feels that you are in a semi-rural environment. They are the last remaining bit of countryside in Kings Worthy that gives it that character. Even if you don't live in their immediate vicinity, anyone passing by them I'm sure picks up on that feeling.</p> <p>If these fields were ever developed it would be a huge blow to a large number of people & seriously change the character of Kings Worthy forever. Without them Kings Worthy would be just another residential satellite of Winchester.</p> | |
| <p>5.</p> | <p>National Highways England (response via email 14.2.22)</p> <ul style="list-style-type: none"> • National Highways has been appointed by the Secretary of State for Transport as strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the strategic road network (SRN). The SRN is a critical national asset and as such National Highways works to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity. • We will therefore be concerned with proposals that have the potential to impact the safe and efficient operation of the SRN, in this case the A34 and M3 motorway. • We have reviewed this consultations and associated documents and have 'No Comments'. • However, please continue to consult National Highways on the matters relating to Winchester City Council's Local Plan. | |
| <p>6.</p> | <ul style="list-style-type: none"> • The description of the landscape around Olivers Battery. The area towards the City below Yew tree Hill is not identified as a specific open space. It is a key area with many positive features for the population but its present value and role has been ignored. | <ul style="list-style-type: none"> • Recommended Change – None Area is identified as Hursley Scarplands (LCA) Chalk and Clay Farmland (LCT) |

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| | <ul style="list-style-type: none"> • The fields have long been a place of recreation for local people, dog walkers, walkers, runners, cyclists, horse riders, & even the toddlers at the Woodhams Farm nursery. • More importantly though is the special character they give to Kings Worthy. The feeling you get travelling down Nations Hill looking into the fields, it really feels that you are in a semi-rural environment. They are the last remaining bit of countryside in Kings Worthy that gives it that character. Even if you don't live in their immediate vicinity, anyone passing by them I'm sure picks up on that feeling. • If these fields were ever developed it would be a huge blow to a large number of people & seriously change the character of Kings Worthy forever. Without them Kings Worthy would be just another residential satellite of Winchester. • The area north of Yew Hill has a tumuli . There is an SSSI. <ul style="list-style-type: none"> • The area north of Yew Hill is designated An Area of Community Value due not only to the actual features: chalk down land, ancient foodpaths, Yew Hill natural environment, the previous Hill Fort and Roman roads now part of the Water Works, the field system and ancient paths, the evidence of past civilizations are illustrated in miniature in this part of the landscape, the tumuli , yew paths, orchid fostering grasslands and wide Hampshire views. The importance of the wide biodiversity of this area should be emphasised. • These aspects are not given any prominence within the review . This part is not in the Hursley scarplands but adjoins them and forms a natural barrier at present from the City and Southampton (including | <ul style="list-style-type: none"> • Recommended Change – None There is a tumuli but mapping does not indicate any SSSIs. This area is within a SSSI Impact Risk Zone but not directly an SSSI. There are SINCs non-statutory designation by HCC. These are recorded in the LCA • Recommended Change – None These features are noted in the Key Characteristics or Key Issues • Recommended Change – None • The LCA update was not to re- define areas unless development had changed their |
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| | <p>the M3).</p> <ul style="list-style-type: none"> The Governments plans to plant trees should have resulted in key areas of planting in Hampshire to be identified/discussed/allocated as part of this plan. | <p>landscape character considerably. This area adjoins the Townscape of Winchester (WIN11k), an assessment undertaken by HCC where a quality noted is <i>good access and connectivity, particularly to open countryside</i></p> <ul style="list-style-type: none"> Recommended Change - None This document is not an action plan. It is an assessment of the landscape character |
| <p>7.</p> | <p>Soberton Parish Council (response via email 17.2.22)</p> <ul style="list-style-type: none"> Generally, SPC feel the document is clear and the selected landscape character areas are logical. The accompanying text is primarily fairly descriptive and clearly could be developed in its detail locally. The Parish Council comments centre on the Landscape Area Boundaries shown on Figure 30 – LCA18 Forest of Bere Lowlands. The southern boundary of the Pasture Woodland Heath Associated as shown on Fig. 30 should be drawn along Liberty Road as this defines the edge of the plateau of former heathland. Liberty road is on the crest of the landform and the landscape falls away and is part of the Mixed Farmland and Woodland category. The eastern boundary of the Pasture Woodland Heath Associated area as shown on Fig. 30 should extend to the east to meet the South Downs National Park boundary and the chalk downland (defined as the Hambledon Downs). The northern boundary of the Pasture Woodland Heath Associated as shown on Fig. 30 should extend north to include Chapel Road which would again border the chalk downland. Historically the areas to the north and east we propose to be included as Pasture Woodland Heath Associated were former heath and part of the plateau. The extended | <ul style="list-style-type: none"> Recommended Change – None The LCTs have been further reviewed and found to be representative of the landscape types. The suggested boundary change around Soberton is difficult to justify based on the evidence available. Neither the Historic Landscape Characterisation nor historic mapping provide clarity over where heathland used to be and there is insufficient detailed geology to tell where that changes from chalk or clay to gravel which would support heathland. The topography in the 3 LCTs is fairly similar, |

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| | <p>boundary includes most of Soberton Heath which is seen as a single landscape character area. Soberton Parish Council attach a mark-up of fig 30 which shows the amendments proposed to the south, east and northern boundaries of the Pasture Woodland Heath Associated area indicated as pink on fig. 30 of the consultation draft.</p> | <p>with the clay and chalk farmland located on the higher ground to the north. The whole area is undulating to different degrees. The land use is mostly grazing with little arable and the scale is pretty similar as well. As is often the case there are no clear cut boundaries between one landscape type and another, with areas of transition between. It is recommended therefore that if the Parish wishes to amend types they should use the WCC LCT boundaries and sub-divide. Crating character areas that span the WCC and SDNP boundaries though could become confusing.</p> |
| <p>8.</p> | <ul style="list-style-type: none"> • This is an excellent document which includes important issues that need policies in the local plan which address all the declines and weaknesses in the ecology of the rural areas. • It will be important to arrange for the monitoring of the actions to ensure they are implemented. | |
| <p>9.</p> | <ul style="list-style-type: none"> • LCA4 - the fields (open arable) to the southern tip of the Wonston Downs are a key relief from the urban landscape of kings Worthy and Winchester, being a welcoming view as one comes down Nation's Hill. It provides a vaulable resource for dog walkers, horse riders and the people of Kings Worthy to relax and enjoy themselves in an almost rural setting. There is already a lot of building going on at the "top field" site in Kings Worthy. Further infill would detract from the chatracter of the Wonston Downs, Headbourne Worthy and Kings Worthy. Given the propensity for flooding along Springvale road it would be sensible to keep buidling in the area to a minimum to maximise drainage and to keep the rural | |

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| | character and the farmland that supports a wide and varied wildlife distribution. | |
| 10. | <ul style="list-style-type: none"> • Page 191 - We would suggest a change of title to adjacent to Colden Common Park Recreation ground. The other recreation ground we have on Main Road is generally called The Recreation Ground and has a similar view so its a bit confusing. | <ul style="list-style-type: none"> • Recommended Change – To amend name of recreation ground |
| 11. | <ul style="list-style-type: none"> • LCA1 P105 Land degradation can be reversed over time with the correct landscape and farming policies, increasing biodiversity will help but a shift to organics will restore goodness to the land and soil structures, Tree planting in sensitive landscape zones with indigenous tree species should replace injurious species which should be grubbed up. • Extending the South Downs National Park further west should become part of the sustainable landscape strategy and be a priority in the light of developer led pressures impacting the environment • References to bird species - include the skylark and its habitat P105 issues • include large scale developer led proposals are a threat to rural landscape. the existing green belt buffer south of Oliver's Battery is critical to avoiding one massive conurbation extending further from Southampton/Chandlersford. • ALL green fields should be protected in line with government's environmental policies including re-wilding. Farm land should also be retained, without exception in order to deliver food security. • Where inner city/towns and villages have community space these should be enhanced and community gardens encouraged BUT THE EXISTING VILLAGE LANDSCAPE MUST BE PROTECTED | <ul style="list-style-type: none"> • Recommended Change – None This is a discussion to be had with SDNP. • Recommended Change – None Key issues note declining farmland birds. The LCA does not specify bird species just group type. WCC Biodiversity Action Plan refers to bird species including the skylark • Recommended Change – None No amendments to be made to the LCA. Refer to other evidence base being produced for Local Plan • Recommended Change – None Detailed assessment could be set out in Neighbourhood Plans/Village Design Statements • Recommended Change – None Detailed assessment could be set out in Neighbourhood Plans/Village Design Statements |

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| | <ul style="list-style-type: none"> • The areas north and south and south west of Winchester should never be allowed or included in any local plan for development, as this would ruin the character of the landscape generally and provide a blot on the landscape. • The arterial roads into Winchester cannot cope with any large developments and this fact, as new development would be heavily car dependent, has not been made clear enough. Also, development other than brown field sites, would increase light and carbon and noise pollution generally affecting sensitive buildings and existing landscape environments, impacting wildlife in all respects. • I suspect that Southern Water could not cope with further development on a large scale, already they are criticised for river and sea pollution. Ground water flooding is a problem in Hursley village and other locations evidencing that increased development would lead to increased risk. | <ul style="list-style-type: none"> • Recommended Change – None Detailed assessment could be set out in Neighbourhood Plans/Village Design Statements • Recommended Change – None Detailed assessment could be set out in Neighbourhood Plans/Village Design Statements |
| <p>12</p> | <p>Lichfields & Partners Ltd (Response submitted in relation to a SHELAA site) These consider in particular the Landscape Character Areas (LCAs), LCA6 (North Dever Downs) and LCA7 (Stratton Woodlands).</p> <ul style="list-style-type: none"> • Our representations consider the remote rural character of LCA6 North Dever Downs is overstated given the proximity of the M3 motorway and the A33 trunk road and that the influence of these urbanising features should be acknowledged and the impact that the arising noise has on the LCA as a whole. Further, the Landscape Character Assessment should identify the potential for sensitively located development parcels within LCA6 and LCA7, including the opportunity to deliver associated green and blue infrastructure, along with the potential to enhance permeability in these areas through the introduction of better links to the existing Public Rights of Way (PRoW) Network. | <ul style="list-style-type: none"> • Recommended Change – None Key Characteristics state: <i>Remote, rural character, although the A303 and railway detract from this to the north of the area.</i> Key characteristics of value and sensitivities state: <i>An area with a remote rural character, with a gently rolling landform with long, open panoramic views to semi wooded horizons</i> To expand, the LCA acknowledges that the A303 and railway detract from the remote rural character. Due to |

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| | | <p>the strength of character of this LCA , in particular the rolling landform, high hedgerows, single track roads, lack of settlements, historic drove roads, dark skies etc, alongside the A303 being well screened the majority of the route, the LCA6 overall retains a remote rural character. Also with regard to the railway line, as the trains are not constant and are not visible in views, due to the age of the trainline and in particular the adjacent mature wooded embankments, this does not also significantly impact on the remote character of LCA6</p> |
| <p>13.</p> | <p>Terence O’Rourke on behalf of BSP (Response submitted in relation to a SHELAA site) In light of the opportunity at Land north of Rareridge Lane, Bishop’s Waltham, particular consideration has been made to Landscape Character Area 15, South Winchester Downs.</p> <ul style="list-style-type: none"> • BSP support the aspiration of the character area to conserve and promote the use of local building materials such as brick, flint, weatherboard, thatch and slate. It is a key part of BSP’s vision for the opportunity at Land north of Rareridge Lane to both respect and respond to the prevailing local materials in its role as a natural extension to Bishop’s Waltham. • Similarly, BSP support the ambition of the character area to integrate new development with the surrounding rural landscape through appropriate siting and the use of locally indigenous planting. The opportunity at Land north of Rareridge Lane has a unique position as the interface between the existing settlement of Bishop’s Waltham and the National Park. The vision for this area therefore incorporates provision of a natural buffer which will | |

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| | <p>further enhance and complement the setting of the National Park where presently it directly adjoins rear gardens. This includes the aspiration to use indigenous planting and appropriate siting of development.</p> <ul style="list-style-type: none"> • BSP acknowledge that there are a range of issues to be considered which may inform management of the South Winchester Downs Landscape Character Area. Notwithstanding, many of what are termed as key issues equally provide opportunities for sensitive enhancement and improvement. For example, a key issue cited is 'further expansion of Colden Common and Bishop's Waltham, particularly extending to the higher grounds towards the SDNP.' Well managed and self-contained expansion, such as that proposed at Land north of Rareridge Lane, provides the opportunity to enhance the setting of the National Park through provision of a sensitively designed landscape buffer with appropriate indigenous planting. The site in its current form is categorised as Grade 4 – Poor Agricultural Land, and is equally not subject to any environmental designations (other than being located within a nitrate vulnerable zone). Consequently, expansion which is well sited, sensitively designed to integrate with its surroundings and provide a defined natural buffer to the National Park can be considered as much as an opportunity as a key issue in this context. • BSP recognise that the South Winchester Downs Landscape Character Area comprises many characteristics of value and sensitivity. Furthermore, BSP support the ambition for any proposals within the character area to be sensitively designed to respond to these. In defining these key characteristics however, it is important to ensure these do not preclude opportunities to further improve and enhance the setting of the character area, as well as supporting growth in the most sustainable locations adjacent to existing settlements. • Whilst it is acknowledged that there are some long views south from the higher ground, it is also highlighted that in the context of the opportunity at Land north of Rareridge Lane, the site is seen against the | |
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| | <p>backdrop of the existing town. Self contained and natural extensions to the existing settlement of Bishop’s Waltham therefore should be supported over isolated development in the countryside, and will help preserve this characteristic of the character area.</p> <ul style="list-style-type: none"> • In addition, where it is outlined that <i>‘the eastern / northern edges of Colden Common / Bishop’s Waltham are generally well integrated into the landscape, screened by the topography and mature trees’</i> it is emphasised that this should not necessarily preclude sensitively designed development opportunities coming forward, particularly along the eastern edge of Bishop’s Waltham. Development which is self-contained and acts as a natural buffer to the National Park, such as that proposed at Land north of Rareridge Lane, provides the opportunity to both preserve and enhance the settlement edge, and its interface with the National Park. • It is further highlighted that high-quality designed development in sustainable edge of settlement locations should be encouraged where it sensitively responds to the setting of the character area. In progressing a sound supplementary planning document which aligns with Winchester’s Local Plan, it is important that the Landscape Character Area Assessment supports the district’s growth needs and requirements. In particular, paragraph 81 of the National Planning Policy Framework (NPPF) outlines the need for planning policies to be flexible, and responsive to changing needs. • Bishop’s Waltham lies within South Hampshire and is one of the two main settlements within the defined ‘Market Towns and Rural Area’ part of Winchester District. This spatial area covers the 50 smaller settlements outside the settlements of Winchester City, Whitely and Waterlooville. The status of Bishop’s Waltham in the settlement hierarchy reflects its higher level of population, service provision and connections with surrounding communities, that not only generate a range of development needs but also have more opportunities for these to be delivered. • A large part of the district north of Bishop’s | |
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| | <p>Waltham is constrained due to its proximity to the South Downs National Park, limiting options to deliver on growth requirements in this sustainable settlement. In broad distributional terms therefore, this position fully supports the allocation of sustainable development opportunities adjacent to the settlement of Bishop’s Waltham, outside of the National Park boundary, in order to maximise opportunities to support the settlement and accommodate some growth – which cannot be distributed/displaced further away from the settlement due to the constraints.</p> <ul style="list-style-type: none"> • Overall therefore, the identification and definition of these character areas should encourage and support sustainable development opportunities which respond sensitively to their setting to come forward. They should not, however, constitute a barrier to the district’s growth requirements, particularly in constrained locations such as Bishop’s Waltham. | |
| <p>14.</p> | <p>Natural England (extract from email received shortly after consultation closed 21.2.22)</p> <ul style="list-style-type: none"> • Natural England supports the aims of this Landscape Character Assessment document and agrees with the methodology summarised in appendix 1. Overall this a thorough and well presented evidence base with useful, clearly laid sections that will enable informed decision making and practical landscape management strategies. Please see below for our specific suggestions for amendments to the Landscape Character Assessment. • Designated sites: The section covering designations in Winchester District (page 26) refers to Special Areas of Conservation (SACs). For completeness this should also include Special Protection Areas (SPAs) as the River Hamble is also designated as Solent and Southampton Water Special Protection Area, a small section of which lies within Winchester District. • Additionally, we also advise that it includes reference to SPA functionally linked land which forms part of a network of terrestrial sites located outside of the Solent SPAs boundaries used by SPA species (including qualifying features and assemblage species) as alternative areas for roosting and foraging. These sites support the | <ul style="list-style-type: none"> • Recommended Change – to include SPAs with reference to the River Hamble • Recommended Change – to incorporate text suggested |

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| | <p>functionality of the designated sites and are therefore protected in this context. Please see the Solent Wader and Brent Goose Strategy (SWBGS) for more information. A small number of these sites are identified within Winchester District along the River Hamble.</p> <ul style="list-style-type: none"> • Planning: You may wish to consider including user guidance such as a flowchart which guides users through the LCA document to find the relevant information to guide and inform planning applications, this could be included in an appendix. | <ul style="list-style-type: none"> • Recommended Change – None Document is clearly laid out |
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APPENDIX C:**Winchester City Council****Equality Impact Assessment (EqIA)**

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| Directorate: Built Environment | Your Service Area: Economy and Community | Team: Natural Environment and Recreation | Officer responsible for this assessment: Katie Morgans | Date of assessment: 4.2.22 |
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| | Question | Please provide details | | |
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| 1 | What is the name of the policy or project that is being assessed? | Landscape Character Assessment update | | |
| 2 | Is this a new or existing policy? | Update to existing | | |
| 3 | Briefly describe the aim and purpose of this work. | To update existing LCA | | |
| 4 | What are the associated objectives of this work? | To update and take into account changes in the landscape over the past 18 years | | |
| 5 | Who is intended to benefit from this work and in what way? | Residents, developers, officers assessing and working on developments | | |
| 6 | What are the outcomes sought from this work? | Update of LCA and evidence for local plan | | |
| 7 | What factors/forces could contribute or detract from the outcomes? | None | | |
| 8 | Who are the key individuals and organisations responsible for the implementation of this work? | WCC and the Terra Firma Consultancy Ltd | | |
| 9 | Who implements the policy or project and who or what is responsible for it? | Officers across the city council involvement in planning | | |
| | | Please select your answer in bold . Please provide detail here. | | |
| 10a | Could the policy or project have the potential to affect individuals or communities on the basis of race differently in a negative way? | Y | N | |
| 10b | What existing evidence (either presumed or otherwise) do you have for this? | The assessment does not differentiate on the basis of race in any way | | |
| 11a | Could the policy or project have the potential to affect individuals or communities on the basis of sex differently in a negative way? | Y | N | |
| 11b | What existing evidence (either presumed or otherwise) do you have | The assessment does not differentiate on the basis of sex in | | |

| | | | |
|-----|--|---|---|
| | for this? | any way | |
| 12a | <p>Could the policy or project have the potential to affect individuals or communities on the basis of disability differently in a negative way?</p> <p><i>you may wish to consider:</i></p> <ul style="list-style-type: none"> • <i>Physical access</i> • <i>Format of information</i> • <i>Time of interview or consultation event</i> • <i>Personal assistance</i> • <i>Interpreter</i> • <i>Induction loop system</i> • <i>Independent living equipment</i> • <i>Content of interview)</i> | Y | N |
| 12b | What existing evidence (either presumed or otherwise) do you have for this? | The assessment does not differentiate on the basis of disability in any way | |
| 13a | Could the policy or project have the potential to affect individuals or communities on the basis of sexual orientation differently in a negative way? | Y | N |
| 13b | What existing evidence (either presumed or otherwise) do you have for this? | The assessment does not differentiate on the basis of sexual orientation in any way | |
| 14a | Could the policy or project have the potential to affect individuals on the basis of age differently in a negative way? | Y | N |
| 14b | What existing evidence (either presumed or otherwise) do you have for this? | The assessment does not differentiate on the basis of age in any way | |
| 15a | Could the policy or project have the potential to affect individuals or communities on the basis of religious belief differently in a negative way? | Y | N |
| 15b | What existing evidence (either presumed or otherwise) do you have for this? | The assessment does not differentiate on the basis of religion in any way | |
| 16a | Could this policy or project have the potential to affect individuals on the basis of gender reassignment differently in a negative way? | Y | N |
| 16b | What existing evidence (either presumed or otherwise) do you have for this? | The assessment does not differentiate on the basis of gender in any way | |

| | | | | |
|---|--|---|---|---|
| 17a | Could this policy or project have the potential to affect individuals on the basis of marriage and civil partnership differently in a negative way? | Y | N | |
| 17b | What existing evidence (either presumed or otherwise) do you have for this? | The assessment does not differentiate on the basis of marriage and civil partnership in any way | | |
| 18a | Could this policy or project have the potential to affect individuals on the basis of pregnancy and maternity differently in a negative way? | Y | N | |
| 18b | What existing evidence (either presumed or otherwise) do you have for this? | The assessment does not differentiate on the basis of pregnancy and maternity in any way | | |
| 19 | Could any negative impacts that you identified in questions 10a to 15b create the potential for the policy to discriminate against certain groups on the basis of protected characteristics? | Y | N | No negative impacts identified |
| 20 | Can this negative impact be justified on the grounds of promoting equality of opportunity for certain groups on the basis of protected characteristics? Please provide your answer opposite against the relevant protected characteristic. | Y | N | Race: Sex: Disability: Sexual orientation: Age: Gender reassignment: Pregnancy and maternity: Marriage and civil partnership: Religious belief: |
| 21 | How will you mitigate any potential discrimination that may be brought about by your policy or project that you have identified above? | No potential discriminations identified | | |
| 22 | Do any negative impacts that you have identified above impact on your service plan? | Y | N | |
| Signed by completing officer | | Katie Morgans | | |
| Signed by Service Lead or Corporate Head of Service | | Susan Robbins, Corporate Head of Economy & Community. (4/2/22) | | |

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CAB3330
CABINET

REPORT TITLE: PARKING CHARGES REVIEW

9TH MARCH 2022

REPORT OF CABINET MEMBER: Cllr Martin Tod – Cabinet Member for Economic Recovery

Contact Officer: Andy Hickman Tel No: 01962 848105

Email ahickman@winchester.gov.uk

WARD(S): ALL WARDS

PURPOSE

The Council, as part of the Air Quality Management Area action plan, has committed to consider a differential parking charge tariff based on vehicle emissions. This report recommends that a consultation is undertaken on how that might be done and that a further report be brought back to Cabinet in due course setting out the results of the consultation and next steps.

In addition to the previously agreed changes to City Centre Parking outlined in the 2022/23 Fees and Charges Paper (CAB3326), this proposal:

- Seeks approval to consult on an Air Quality Surcharge in the Winchester air quality management area.
- Proposes extra measures to reduce car movements in the central air quality zone and improve air quality by removing the free half hour ticket for City Centre On Street Parking and introducing a free hour ticket in Park & Walk Car Parks.
- Recommends increasing central zone Season Tickets to ensure they remain consistent with parking day rates and an improved Season Ticket offer for park and ride.

RECOMMENDATIONS:

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 11.4 below 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.

IMPLICATIONS:**2** COUNCIL PLAN OUTCOME

- 2.1 This proposal primarily supports the Climate Change, Living Well and Vibrant Local Economy priorities of the council plan - by improving air quality, supporting lower carbon travel and wellbeing through increased active travel in the city centre while ensuring that it remains affordable to visit to use the centre and enabling local businesses to reduce the cost of using the Park & Ride for their staff.
- 2.2 The car park charges suggested in this report have been carefully considered in relation to their impact on the local economy. It is important to read this report alongside the car parking improvement programme report, also on this agenda, which sets out plans for improving parking and access across the district.

3 FINANCIAL IMPLICATIONS

- 3.1 Table 1 below shows the forecast financial impact of the proposed amendments to the parking charges.

The figures below, take account of the requirements of the on-street parking agency agreement with Hampshire County Council, whereby the county council receive 50% of any surplus on-street income. It is important to note that if the arrangements return to HCC in 2023 then the £80k per annum additional income share below would cease to be received by the city council.

- 3.3 The figures also take into account anticipated associated changes in parking behaviours, as a result of removal of the free half an hour on street charge, the introduction of a free hour tariff in park and walk car parks and the increase in charges in central car parks.

Table 1

| Proposals | 2022/23 | 2023/24 |
|--|----------------|----------------|
| Potential changes to income from changes to car park charges* | 50,000 | 100,000 |
| Potential Income from removal of free half hour on-street charge | 40,000 | 80,000 |
| Potential change to income from introduction of free one hour in park and walk parking | -25,000 | -50,000 |
| Overall potential additional income | 65,000 | 130,000 |

| | | |
|--|-----------|----------|
| <u>Expenditure:</u> | | |
| One off costs (signage, software, publicity) | (£20,000) | |
| Total Expenditure | £20,000 | |
| Forecast Net Change | £45,000 | £130,000 |

Note - The additional forecast income assumes an allowance for users switching to other cheaper car parks.

- 3.4 Staff resources are available to implement the proposed changes to the operations and charges as set out in this report. One-off costs of approximately £20,000 will be required to cover the costs of changes to signing, software and to publicise the new rates.
- 3.5 As identified in the Parking and Access Strategy (CAB2874 refers) there is a need to support a number of new initiatives to implement the aims of the Strategy and any additional income (as identified in the table above) generated by adjustments to parking charges, designed to influence drivers' behaviour, can be used to support projects. These include improvements to parking facilities such as signing (35,000), cycle provision (£50,000), improvements in market towns (£25,000) and supporting bus services including park and ride. This is considered further in a separate report, also on this agenda, setting out a parking and access improvements programme of works over the next two years.

4 LEGAL AND PROCUREMENT IMPLICATIONS

- 4.1 The car parking charges amendments proposed in this report will be published in line with the requirements of the On-street and Off-street parking regulation orders.

5 WORKFORCE IMPLICATIONS

- 5.1 The process of implementing this change can be accommodated from within existing staff resources but there would be a one off external cost of £20,000 to amend software and signing associated with the proposed tariff changes.

6 PROPERTY AND ASSET IMPLICATIONS

None as a result of proposal in this report.

7 CONSULTATION AND COMMUNICATION

- 7.1 The Winchester BiD board received a presentation on budget options including car parking charges on 7th January. They stressed the need to

support business – especially through good value staff parking and to provide a good business offer in terms of cost to users. Some concern was expressed about a surcharge on more polluting vehicles subject to seeing the details of such a scheme.

- 7.2 Meetings have taken place in 2021 with key stakeholders in the market towns which generated a list of issues and opportunities in respect of parking, access and traffic management. These discussions are ongoing and the agreed list of actions is being progressed.
- 7.3 Hampshire County Council has been consulted and support the changes as set out in this report.
- 7.4 There will need to be communications to residents and visitors alike to make them aware of the changes once agreed, and signpost them towards alternative options which exist so that they are able to choose the best option for them.

These communications should also include highlighting where existing options exist. For example it is possible to park for a week in a park and ride for £3.15 a day (£15.75 a week) and it may be that a review of such existing offers may identify some simple improvements without changing prices, which take advantage of the capability of the phone payment system offered through RingGo, which is now used by over 50% of customers.

- 7.5 A consultation will be 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.

8 ENVIRONMENTAL CONSIDERATIONS

- 8.1 Applying differential tariffs depending upon the vehicles emissions is an action in the air quality management area (AQMA) action plan and the proposals in this report support the air quality objectives and carbon reduction targets.

9 EQUALITY IMPACT ASSESSEMENT

- 9.1 Equality issues as a result of the proposed changes to car parking charges have been considered as part of the EIA as set out in Appendix 2
- 9.2 The changes proposed in this report include a choice of different parking tariffs available within the City. The Council's policy on blue badge holder parking and charges is unaltered in that blue badge holders are able to park for free in all pay and display car parks. In relation to the removal of the free half an hour on-street tariff, a new free hour tariff is proposed in all park and walk car parks which will provide an alternative which will encourage better parking choices.
- 9.3 Poor air quality is associated with severe health inequalities – and is can be particularly damaging to young children and older people. Improving air

quality through reducing the number of the most polluting vehicles driving into the centre to park will help address this.

- 9.4 Equality issues will be considered through a full EIA in relation to the differential emission based tariff scheme and this will be included in a subsequent report later in the year.

10 DATA PROTECTION IMPACT ASSESSMENT

- 10.1 There are no changes proposed in this report will impact on current data sets or arrangements.

11 RISK MANAGEMENT

- 11.1 It is anticipated that the revised charges proposed in this report which build upon the approach to charge more for central parking and hence encourage the use of park and walk car parks and park and ride will achieve a further shift away from central parking. The risk is that this doesn't happen and that people pay the extra charge and carry on parking in the same place which would therefore not help achieve the objective of reducing city centre traffic. Full removal of the free half an hour on-street charge and replacing it with a free 1 hour tariff in park and walk car parks helps to offset this risk along with an attractive offer in terms of alternatives.
- 11.2 There is also a risk that people will stop paying to park if prices rise beyond a level which they consider to be reasonable and potentially could choose to visit other places as alternatives to Winchester and the market towns/ villages. Our main mitigation is to freeze or reduce park and ride and park and walk charges and options so that the value sensitive drivers continue to have a much cheaper offer within a short walk or bus trip from the city centre. Whilst some increase in charges in central Winchester car parks are proposed it is not proposed to increase charges in other car parks. This is offset by having cheaper tariffs in park and walk and park and ride car parks.
- 11.3 A further risk is if the associated displacement of centre parking to cheaper car parks can be accommodated. If too many drivers seek to park outside the centre, pressure on inner ring and Park and Ride may cause problems if demand exceeds capacity. However these risks can be managed and mitigated by increasing the capability of the Park and Ride operation by providing additional bus capacity. There is currently sufficient parking capacity at park and walk and at the Park and Ride sites to cope with typical levels of use and therefore there is scope to accommodate an increase in patronage which might be generated by the proposals in this report.

| Risk | Mitigation | Opportunities |
|---|--|--|
| Exposure to challenge | The changes will be formally notified in accordance with the on-street and off-street Traffic Regulation Order requirements. | |
| Innovation – developing new charges based on vehicle emissions | This needs to be assessed carefully in terms of equality impacts | Improving air quality in the city centre. |
| Reputation - <i>Increasing parking charges too much and/or without clear justification could attract criticism from the public and businesses whose staff and customers rely on public parking. . Increasing pressure on inner and outer ring car parks by increasing charging differentials with centre car parks could cause capacity issues.</i> | Ensure that it is explained that the adjustment to the charging regime is intended to influence driver behaviour in line with the Parking and Access Strategy. Other actions needed to implement the Strategy will also require reinvestment in our parking stock including the Park and Ride operation. | Marketing and signing of alternatives. Good communications to explain the approach and to encourage change in parking behaviour. |
| Achievement of outcome Will peoples behaviours change or will they just pay the extra cost? Can displaced car parking be accommodated? Will people chose to visit another town? | Providing attract and well-advertised parking choices / options Park and ride bus services can be adjusted to meet demand and capacity is available at park and walk car parks Alternative cheaper parking is provided under the proposals | Marketing and promotions |
| Property – none specific to this report | | |
| Community Support - <i>Changing the pricing</i> | Public consultation undertaken in relation to | Public consultation will be |

| | | |
|--|--|---|
| <i>strategy could attract criticism if not supported by residents, businesses and visitors</i> | the Parking and Access Strategy formulation has helped to understand local opinions, including supporting the use of charging to encourage change. and this information has informed recommendations on parking charges. | undertaken for the differential parking tariff scheme to gauge support and then reported back to Cabinet to agree a way forward. . |
| Timescales - No significant risk but recommended changes are introduced in 2022/23 | | |
| Project capacity – N/A | | |
| <p>Financial exposure - <i>If car parking charges are set too high use will decrease and income reduce and if people decide to visit places other than Winchester the local economy could be detrimentally affected.</i></p> <p><i>Business and tourist areas are still recovering from the impacts Covid and additional charges will further impact this.</i></p> | <p>Best estimates relating to changes in behaviour resulting from the proposed charges have been modelled in relation to income. Income will need to be closely monitored and reviewed.</p> <p>The proposed tariffs provide a cheaper alternative to centre parking including a free 1 hour tariff in park and walk car parks.</p> | <p>Marketing park and ride to visitors/ tourists.</p> <p>Working with Stagecoach to provide additional levels of park and ride if required at certain high demand times of the year.</p> <p>Promotional information to make people aware of alternatives.</p> |

12 SUPPORTING INFORMATION:

Background

- 12.1 The Council, as part of the Air Quality Management Area action plan, has committed to consider a differential parking charge tariff based on vehicle emissions. This report recommends that a consultation is undertaken on how that might be done and that a further report be brought back to Cabinet in due course setting out the results of the consultation and next steps.
- 12.2 This report also presents some further changes to car parking charges in addition to those agreed in fees and charges paper to Cabinet in November 2021.

Details of Proposal

12.3 This report proposes some additional 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) which agreed to increase charges in centre car parks by 3%. The full charging schedule including both changes suggested in this paper and those agreed in CAB3326 is shown in Appendix 1. It is intended that all of the changes will be advertised and implemented together in October.

12.4 The additional proposed changes are:

- A 3% increase in season tickets prices in Centre car parks as listed below and set out in Appendix 1.
- The introduction of a free 1 hour period in all 'Park & Walk' car parks as listed below and set out in appendix 1
- Removal of the free half an hour tariff for on-street pay and display parking in Winchester.
- Improved value for commuters at park and Ride by introducing a new quarterly season ticket offer at £175.
- Increased promotion of the Ringo pay by phone Wallet and associated discounts available at park and ride whilst making it easier to use for customers.
- An increase in the 6 hour tariff charge available in The Brooks and Middlebrook Street car parks from £6.20 to £6.40. This reflects the 3% increase applied to other charges as agreed in CAB3326.
- Introduction of a Saturday tariff in Arlebury Park, New Alresford in line with other New Alresford car parks. This is part of a negotiation regarding the renewal of the parking management agreement for this car park between the City Council and The Town Council.
- It should be noted that the new tariffs agreed for the Mid Hampshire Railway car park in New Alresford at the Decision Day on 1st March 2021 (DD28) will be implemented this spring and are included in Appendix 1 of this report.

| Centre Car Parks |
|----------------------------------|
| The Brooks |
| Middle Brook Street |
| Colebrook Street |
| Guildhall Yard*** (Sat-Sun only) |
| Friarsgate |
| Jewry Street |
| Cossack Lane |
| Upper Brook Street |
| St.Peters |
| Tower Street |
| Gladstone Street |
| Park and Walk Car Parks |
| Chesil Street |
| Cattle Market |
| Worthy Lane |
| Coach Park |
| River Park Leisure Centre |

Differential Charging for higher polluting vehicles.

- 12.5 The Council, as part of the Air Quality Management Area action plan, has committed to consider a differential parking charge tariff based on vehicle emissions. Looking at the parking sessions in Winchester booked through Ringo we can start to see the composition of vehicles in terms of older diesel and higher carbon emitting vehicles. At present (in December 2021) around 50% of all parking payments in Winchester were made through Ringo. This shows for example that around 40% of vehicles parking in Winchester were older diesel vehicles. Further work will be done on this to help guide and inform the development of a scheme and this will also be informed by the results of a consultation.
- 12.6 It is important that equality issues are carefully considered before implementing such a scheme. As such a full equality impact assessment will be undertaken which will inform the development of a potential scheme.
- 12.7 In relation to particulate based charging there are a number of schemes being run by other local authorities including those listed below, a review of best practice and lessons learnt from other authorities will be undertaken:
- *Westminster charging a 50% surcharge on hourly parking rates on pre-2015 diesels*
 - *Portsmouth introducing a Clean Air Zone charged at a flat rate (in their case for commercial vehicles) based on the UK Government system of*

charging for diesels below Euro 6 and petrol vehicles below Euro 4.

<https://cleanerairportsmouth.co.uk/clean-air-zone-faqs/>

- *Croydon has introduced discounts based on levels of emissions ie 90% discount for zero emission vehicles, and 25% discount for vehicles with up to 185 g/km co2 and full rate above that.*

12.8 It is proposed to consult on the following issues/ considerations:

- The criteria to be used for the differential charges. There are examples of schemes in different local authority areas including a flat rate surcharge on diesel vehicles and a surcharge on vehicles above certain emission levels.
- Whether to add a flat rate charge (e.g. £2) or a percentage increase (e.g. 25%) to car park prices for certain vehicles exceeding set thresholds/ criteria.
- The level of the charge
- Whether to implement within car parks or on street or both
- Whether to implement via Ringo (pay by phone) only (with the higher charge automatically included for payment via machine) or Ringo and new payment machine capable of inputting registration numbers.
- Whether to start with a trial area and what area to include in the scheme.
- Which groups might need to be excluded from the charge (e.g. blue badge holders) and what changes will need to be made to payment options and what concessions should be included to address any equality issues identified.

12.9 Following this consultation a report with detailed proposals be brought back to Cabinet later in the year.

13 OTHER OPTIONS CONSIDERED AND REJECTED

13.1 The option of not increasing any parking charges was considered but it was felt that as the Council has an agreed air quality strategy, which was fully consulted upon, that some changes are required in order to deliver objectives and actions in that strategy. This approach also supports meeting wider objectives in relation the Winchester Movement Strategy and carbon reduction objectives. Increasing central charges further was also considered but felt that this would not to be the right time due to businesses still recovering from the impacts of Covid.

BACKGROUND DOCUMENTS:-

[Winchester movement Strategy](#)

[Parking and Access Strategy](#)

Previous Committee Reports:-

Other Background Documents:-

APPENDICES:

Appendix 1 – table of proposed charges

Appendix 2 Equality Impact Assessment

(Appendices 1 & 2 attached as separate documents)

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| MONDAY TO SUNDAY CHARGES - Mon to Sun 0800-1900 | | | | | | | | | | | | | | | Sunday | |
|---|--------------|--------------|---------------------|---------------|---------------------|---------------|---------------------|---------------|---------------------|------------------------|------------------------|--------------|---------------------|--------------|---------------------|--|
| Current | Proposed | Current | Agreed from October | Current | Agreed from October | Current | Agreed from October | Current | Agreed from October | Current | Proposed | Current | Agreed from October | Current | Agreed from October | |
| Up to ½ Hour | Up to ½ Hour | Up to 1 Hour | Up to 1 Hour | Up to 2 Hours | Up to 2 Hours | Up to 3 Hours | Up to 3 Hours | Up to 4 Hours | Up to 4 Hours | Up to 6 Hrs - Sat only | Up to 6 Hrs - Sat only | Over 4 Hours | Over 4 Hours | All day rate | All day rate | |
| Centre Car Parks | | | | | | | | | | | | | | | | |
| The Brooks | | £1.50 | £1.60 | £2.90 | £3.00 | £4.40 | £4.50 | £5.80 | £6.00 | £6.20 | £6.40 | £15.00 | £15.50 | £2.00 | £2.10 | |
| Middle Brook Street | | £1.50 | £1.60 | £2.90 | £3.00 | £4.40 | £4.50 | £5.80 | £6.00 | £6.20 | £6.40 | £15.00 | £15.50 | £2.00 | £2.10 | |
| Colebrook Street | | £1.50 | £1.60 | £2.90 | £3.00 | £4.40 | £4.50 | £5.80 | £6.00 | | | £15.00 | £15.50 | £2.00 | £2.10 | |
| Guildhall Yard*** (Sat-Sun only) | | £1.50 | £1.60 | £2.90 | £3.00 | £4.40 | £4.50 | £5.80 | £6.00 | | | £15.00 | £15.50 | £2.00 | £2.10 | |
| Friarsgate | | £1.50 | £1.60 | £2.90 | £3.00 | £4.40 | £4.50 | £5.80 | £6.00 | | | £15.00 | £15.50 | £2.00 | £2.10 | |
| Jewry Street | | £1.50 | £1.60 | £2.90 | £3.00 | £4.40 | £4.50 | £5.80 | £6.00 | | | £15.00 | £15.50 | £2.00 | £2.10 | |
| Cossack Lane | | £1.50 | £1.60 | £2.90 | £3.00 | £4.40 | £4.50 | £5.80 | £6.00 | | | £15.00 | £15.50 | £2.00 | £2.10 | |
| Upper Brook Street | | £1.50 | £1.60 | £2.90 | £3.00 | £4.40 | £4.50 | £5.80 | £6.00 | | | £15.00 | £15.50 | £2.00 | £2.10 | |
| St.Peters | £0.40 | £0.40 | £1.50 | £1.60 | £2.90 | £3.00 | £4.40 | £4.50 | £5.80 | £6.00 | | £15.00 | £15.50 | £2.00 | £2.10 | |
| Tower Street | | £1.50 | £1.60 | £2.90 | £3.00 | £4.40 | £4.50 | £5.80 | £6.00 | | | £15.00 | £15.50 | £2.00 | £2.10 | |
| Gladstone Street | | £1.50 | £1.60 | £2.90 | £3.00 | £4.40 | £4.50 | £5.80 | £6.00 | | | £15.00 | £15.50 | £2.00 | £2.10 | |

MONDAY TO SATURDAY CHARGES - Mon to Sat 0800 to 1800 Monday to Saturday (Sundays and Bank hols free)

| Park & Walk Car Parks | | | | | | | | | | | | | | | | |
|----------------------------------|--|---------|----------|---------|----------|---------|----------|---------|----------|------------|------------|-------|------------|----------------|-----------|--|
| | | Current | Proposed | Current | Proposed | Current | Proposed | Current | Proposed | | | | | | | |
| Chesil Street (Multi-Storey) | | £0.80 | FREE | £1.50 | £1.50 | £2.20 | £2.20 | £2.90 | £2.90 | | | £7.30 | £7.30 | | | |
| Cattle Market | | £0.80 | FREE | £1.50 | £1.50 | £2.20 | £2.20 | £2.90 | £2.90 | | | £7.30 | £7.30 | | | |
| Worthy Lane | | £0.80 | FREE | £1.50 | £1.50 | £2.20 | £2.20 | £2.90 | £2.90 | | | £7.30 | £7.30 | | | |
| Coach Park (Cars) | | £0.80 | FREE | £1.50 | £1.50 | £2.20 | £2.20 | £2.90 | £2.90 | | | £7.30 | £7.30 | | | |
| Coach Park (Coaches) | | | | | | | | | | | | £7.30 | £7.30 | | | |
| River Park Leisure Centre* | | £0.80 | FREE | £1.00 | £1.50 | £2.20 | £2.20 | £2.90 | £2.90 | Up to 5hrs | Up to 4hrs | 5hrs+ | Over hours | £15.00 Mon-Fri | £7.30 Sat | |

MONDAY TO SUNDAY CHARGES - to be charged 0800 to 1900 Monday to Sunday

| | | | | | | | | | | | | | | | |
|-------------------------------------|--|-------|-------|-------|-------|-------|-------|-------|-------|--|--|-------|-------|--|--|
| Winchester Sport & Leisure Park**** | | £0.80 | £0.80 | £1.50 | £1.50 | £2.20 | £2.20 | £2.90 | £2.90 | | | £7.30 | £7.30 | | |
|-------------------------------------|--|-------|-------|-------|-------|-------|-------|-------|-------|--|--|-------|-------|--|--|

| Park & Ride Car Parks | | Daily Charge | | CAB3330 – Annual Charge | | | |
|---|--|--------------|----------|--|--|---------|----------|
| Ticket Type | | Current | Proposed | Ticket Type | | Current | Proposed |
| All Day Ticket - Cash Vend | | £3.50 | £3.50 | Quarterly Season ticket | | - | £175 |
| All Day Ticket – E-wallet(10% discount)***** | | £3.15 | £3.15 | Annual Season Ticket | | £644 | £644 |
| Off Peak Ticket (after 10.30am - NOT Saturdays) | | £3.00 | £3.00 | Park & Cycle - available from P&R South only | | £130 | £130 |
| Saturday only (up to 3 hours stay) ** | | £1.80 | £1.80 | | | | |
| Parking after 4pm** | | Free | Free | | | | |
| Sundays - Free parking but no bus service | | Free | Free | | | | |

| Season Tickets | | | | |
|------------------|-----------------------|----------|-------------------------------|----------|
| Centre Car Parks | SEASON TICKETS Annual | | SEASON TICKETS Quarterly***** | |
| | Current | Proposed | Current | Proposed |
| St.Peters | £2,760 | £2,852 | £750 | £775 |
| Tower Street | £2,760 | £2,852 | £750 | £775 |
| Gladstone Street | £2,760 | £2,852 | £750 | £775 |

| Park & Walk Car Parks | | | | |
|------------------------------|--------|--------|------|------|
| Chesil Street (Multi-Storey) | £1,343 | £1,343 | £365 | £365 |
| Cattle Market | £1,343 | £1,343 | £365 | £365 |
| Worthy Lane | £1,343 | £1,343 | £365 | £365 |
| Coach Park (Cars) | £1,343 | £1,343 | £365 | £365 |
| Season Ticket Holder Only | | | | |
| Crowder Terrace | £1,343 | £1,343 | £365 | £365 |
| The Lido | £1,343 | £1,343 | £365 | £365 |
| Barfield Close | £644 | £644 | £175 | £175 |

| Further information | |
|---|--|
| <p>* River Park Leisure Centre operation hours 9am to 5pm. Proposed 8-6pm. ** Available in St Catherines and Barfield Car Parks only to enable use in conjunction with the Athletics Stadium. *** Guildhall Yard - currently weekends only. **** Up to 4hrs free parking if using chargeable Leisure Centre facilities ***** E-wallet supplied by RingGo is a prepaid option ***** 2, 3, and 4 day season tickets calculated accordingly</p> | |

**AQMZ
On Street Pay and Display**

| Location | Current Up to ½ Hour | Proposed Up to ½ Hour | Current Up to 1 Hour | Proposed Up to 1 Hour | Current Up to 1 1/2 Hrs | Proposed Up to 1 1/2 Hrs | Current Up to 2 Hrs | Proposed Up to 2 Hrs |
|---------------|----------------------------|-----------------------------|-------------------------|-----------------------------|-------------------------------|--------------------------------|------------------------|-------------------------|
| Colebrook St | Free | REMOVE | £1.40 | £1.60 | | | | |
| Market Lane | Free | REMOVE | £1.40 | £1.60 | | | | |
| Parchment St | Free | REMOVE | £1.40 | £1.60 | | | | |
| St. Peters St | Free | REMOVE | £1.40 | £1.60 | | | | |
| The Square | Free | REMOVE | £1.40 | £1.60 | | | | |
| Tower St | Free | REMOVE | £1.40 | £1.60 | | | | |
| North Walls | Free | REMOVE | £1.40 | £1.60 | £2.00 | £2.30 | £2.70 | £3.00 |
| The Broadway | Free | REMOVE | £1.40 | £1.60 | | | | |
| Andover Road | Free | REMOVE | £0.70 | £1.60 | | | | |
| Upper High St | Free | REMOVE | £0.70 | £1.60 | | | | |
| Water Lane | Free | REMOVE | £0.70 | £1.60 | | | | |
| Victoria Road | Free | REMOVE | £0.70 | £1.60 | | | | |

**Market Towns
Alresford Car Parks**

| Location | Current | Agreed to be implemented | Current | Agreed to be implemented | Current | Agreed to be implemented | Current | Agreed to be implemented | Current | Agreed to be implemented | Season Ticket Group | Current Charging Hours | Proposed Charging Hours |
|------------------------------|-----------|--------------------------|---------------|--------------------------|-------------|--------------------------|-------------|--------------------------|------------|--------------------------|---------------------|------------------------|-------------------------|
| | Up to 1hr | Up to 1hr | Up to 2 Hours | Up to 2 Hours | Up to 3 Hrs | Up to 3 Hrs | Up to 4 Hrs | Up to 4 Hrs | Over 4 Hrs | Over 4 Hrs | | | |
| Alresford Station, Alresford | £0.30 | £1.00 | £0.60 | £2.00 | £0.80 | £3.00 | £1.20 | REMOVE | £1.50 | £4.00* | F** | Mon-Sat 8-6 | Mon-Sun 8-6*** |
| | Current | Proposed | Current | Proposed | Current | Proposed | Current | Proposed | Current | Proposed | | | |
| Perins, Alresford | £0.30 | £0.30 | £0.60 | £0.60 | £0.80 | £0.80 | £1.20 | £1.20 | £1.50 | £1.50 | F | Mon-Sat 8-6 | Mon-Sat 8-6 |
| Arlebury Park, Alresford | FREE | FREE | FREE | FREE | £0.80 | £0.80 | £1.20 | £1.20 | £1.50 | £1.50 | F | Mon-Fri 9-5 | Mon-Saturday 9-5 |

Further information
 *Mid Hants Railway customers only (all day ticket)
 **Available in overflow section of the car park only
 ***Including Bank/Public holidays

| Group F Season Ticket | Current | Proposed |
|-----------------------|---------|----------|
| Annual (12 months) | £275 | £275 |
| Quarterly (3 months) | £75 | £75 |

Winchester City Council

Equality Impact Assessment (EIA) for car park charges and parking and access improvement programme

Section 1 - Data Checklist

| | | Yes/No | Please provide details |
|---|---|--------|---|
| 1 | Have there been any complaints data related to the policy or project you are looking to implement? | No | All data protection policies and practices are followed both by the Council and external contractors. |
| 2 | Have all officers who will be responsible for implementing the policy or project been consulted, and given the opportunity to raise concerns about the way the policy or function has or will be implemented? | Yes | |
| 3 | Have previous consultations highlighted any concerns about the policy or project from an equality impact perspective? | Yes | Requests for disabled parking and parent and toddler parking spaces. Also comments about fair charges and providing options in terms of methods of payment and availability of parking. These are assessed in relation to guidance and other Council Strategies and provision made accordingly. |
| 4 | Do you have any concerns regarding the implementation of this policy or project? <i>(i.e. Have you completed a self-assessment and action plan for the implementation of your policy or project?)</i> | No | Careful project planning will be undertaken in order to implement changes resulting in car park charges and parking improvements. Works will be planned to minimise impact and disruption to residents, visitors and commuters. |
| 5 | Does any accessible data regarding the area which your work will address identify any areas of | No | |

| | | Yes/No | Please provide details |
|---|---|--------|--|
| | concern or potential problems which may impact on your policy or project? | | |
| 6 | Do you have any past experience delivering similar policies or projects which may inform the implementation of your scheme from an equality impact point of view? | Yes | Head of Programme and Parking team are experienced in delivering tariff changes and car park improvements. |
| 7 | Are there any other issues that you think will be relevant? | No | |

Section 2 - Your EIA form

| | | | | |
|---------------------------|---------------------------------------|--------------------------|--|--|
| Directorate: Place | Your Service Area: Car parking | Team: car parking | Officer responsible for this assessment: Jayne Green | Date of assessment: 10/12/2021 |
|---------------------------|---------------------------------------|--------------------------|--|--|

| | Question | Please provide details |
|---|--|---|
| 1 | What is the name of the policy or project that is being assessed? | Parking and Access strategy implementation |
| 2 | Is this a new or existing policy? | Existing |
| 3 | Briefly describe the aim and purpose of this work. | A review of car park charges and plan for car park improvements over the next 2 financial years. |
| 4 | What are the associated objectives of this work? | To make changes to car park charges in the Winchester District, to support the aims of the Movement Strategy and Parking and Access Strategy, and to agree a suite of improvements to some of the Winchester District car parks over the next 2 financial years. |
| 5 | Who is intended to benefit from this work and in what way? | The City Council will benefit from this work by being able to provide a sufficient number of suitably located and managed parking spaces to sustain the long term economic, social and environmental well-being of Winchester town and district. This will then have a subsequent benefit to residents and businesses of the Winchester District. |
| 6 | What are the outcomes sought from this work? | For a charging schedule to be agreed that reflects the current climate i.e. with COVID-19 still a factor and with a key Council aim to be improved air quality. Also a key part of the Council's estate (i.e. car parks) being in as good quality a state as possible. |
| 7 | What factors/forces could contribute or detract from the outcomes? | There are potentially some changes proposed in the parking charges that may cause concern from local businesses, |

| | | |
|---|--|---|
| | | Meetings with businesses over specific schemes and through representative groups such as the Winchester BiD and local members, Town and Parish Councils and other stakeholder groups. |
| 8 | Who are the key individuals and organisations responsible for the implementation of this work? | Parking – Campbell Williams, Ian Way, Scott Macbrayne Engineers – Sara Davies, Dan Massey. |
| 9 | Who implements the policy or project and who or what is responsible for it? | Head of Programme, Place – Andy Hickman |

| | | | | |
|-----|--|--|----------|--|
| | | Please select your answer in bold . Please provide detail here. | | |
| 10a | Could the policy or project have the potential to affect individuals or communities on the basis of race differently in a negative way? | Y | N | |
| 10b | What existing evidence (either presumed or otherwise) do you have for this? | This project has no bearing on race. | | |
| 11a | Could the policy or project have the potential to affect individuals or communities on the basis of sex differently in a negative way? | Y | N | |
| 11b | What existing evidence (either presumed or otherwise) do you have for this? | This project has no bearing on a person's sex. | | |
| 12a | Could the policy or project have the potential to affect individuals or communities on the basis of disability differently in a negative way? <i>you may wish to consider:</i> <ul style="list-style-type: none"> • <i>Physical access</i> • <i>Format of information</i> | Y | N | |

| | | | | |
|-----|---|---|---|--|
| | <ul style="list-style-type: none"> • <i>Time of interview or consultation event</i> • <i>Personal assistance</i> • <i>Interpreter</i> • <i>Induction loop system</i> • <i>Independent living equipment</i> • <i>Content of interview)</i> | | | |
| 12b | What existing evidence (either presumed or otherwise) do you have for this? | The Council's policy on blue badge holder parking and charges is unaltered in that blue badge holders will still be able to park for free in all pay and display car parks. The Parking and access Strategy was consulted upon and no such issues raised other than those relating to disabled parking. The Council has a good range of provision for disabled parking. All car parks include disabled parking provision and on-street provision is provided where possible and where needed. | | |
| 13a | Could the policy or project have the potential to affect individuals or communities on the basis of sexual orientation differently in a negative way? | Y | N | |
| 13b | What existing evidence (either presumed or otherwise) do you have for this? | This project has no bearing on anyone's sexual orientation. | | |
| 14a | Could the policy or project have the potential to affect individuals on the basis of age differently in a negative way? | Y | N | |
| 14b | What existing evidence (either presumed or otherwise) do you have for this? | This project has no bearing on anyone's age. | | |
| 15a | Could the policy or project have the potential to affect individuals or communities on the basis of religious belief differently in a negative way? | Y | N | |
| 15b | What existing evidence (either presumed or otherwise) do you have for this? | This project has no bearing on anyone's religious beliefs. | | |
| 16a | Could this policy or project have the potential to affect | | | |

| | | | | | | | | | | | | | | |
|---------------------------------|--|---|---|---|-----|-------|------|-------------|---------------------|------|----------------------|--------------------------|---------------------------------|-------------------|
| | individuals on the basis of gender reassignment differently in a negative way? | Y | N | | | | | | | | | | | |
| 16b | What existing evidence (either presumed or otherwise) do you have for this? | This project has no bearing on gender reassignment. | | | | | | | | | | | | |
| 17a | Could this policy or project have the potential to affect individuals on the basis of marriage and civil partnership differently in a negative way? | Y | N | | | | | | | | | | | |
| 17b | What existing evidence (either presumed or otherwise) do you have for this? | This project has no bearing on anyone on the basis of marriage or civil partnership. | | | | | | | | | | | | |
| 18a | Could this policy or project have the potential to affect individuals on the basis of pregnancy and maternity differently in a negative way? | Y | N | | | | | | | | | | | |
| 18b | What existing evidence (either presumed or otherwise) do you have for this? | The consultation on the Parking and Access Strategy did not raise any such issues. The Council seeks to provide parent and toddler spaces where needed. | | | | | | | | | | | | |
| 19 | Could any negative impacts that you identified in questions 10a to 15b create the potential for the policy to discriminate against certain groups on the basis of protected characteristics? | Y | N | N/A | | | | | | | | | | |
| 20 | Can this negative impact be justified on the grounds of promoting equality of opportunity for certain groups on the basis of protected characteristics? Please provide your answer opposite against the relevant protected characteristic. | Y | N | <table border="1"> <tr><td>N/A</td></tr> <tr><td>Race:</td></tr> <tr><td>Sex:</td></tr> <tr><td>Disability:</td></tr> <tr><td>Sexual orientation:</td></tr> <tr><td>Age:</td></tr> <tr><td>Gender reassignment:</td></tr> <tr><td>Pregnancy and maternity:</td></tr> <tr><td>Marriage and civil partnership:</td></tr> <tr><td>Religious belief:</td></tr> </table> | N/A | Race: | Sex: | Disability: | Sexual orientation: | Age: | Gender reassignment: | Pregnancy and maternity: | Marriage and civil partnership: | Religious belief: |
| N/A | | | | | | | | | | | | | | |
| Race: | | | | | | | | | | | | | | |
| Sex: | | | | | | | | | | | | | | |
| Disability: | | | | | | | | | | | | | | |
| Sexual orientation: | | | | | | | | | | | | | | |
| Age: | | | | | | | | | | | | | | |
| Gender reassignment: | | | | | | | | | | | | | | |
| Pregnancy and maternity: | | | | | | | | | | | | | | |
| Marriage and civil partnership: | | | | | | | | | | | | | | |
| Religious belief: | | | | | | | | | | | | | | |
| 21 | How will you mitigate any potential discrimination that may be brought about by your policy or project that you have | .N/A | | | | | | | | | | | | |

| | | | | |
|----|---|---|---|-----|
| | identified above? | | | |
| 22 | Do any negative impacts that you have identified above impact on your service plan? | Y | N | N/A |

| | |
|--|-------------------|
| Signed by completing officer | Campbell Williams |
| Signed by Service Lead or Corporate Head | Andy Hickman |

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CAB3329
CABINET

REPORT TITLE: PARKING AND ACCESS PLAN IMPROVEMENT PROGRAMME

9 MARCH 2022

REPORT OF CABINET MEMBER: Cllr Martin Tod - Cabinet Member for Economic Recovery

Contact Officer: Campbell Williams Tel No: 01962 848 476
Email cawilliams@winchester.gov.uk

WARD(S): ALL WARDS

PURPOSE

The purpose of this report is to consider and agree the proposed Parking and Access Improvement Programme for 2022/23 and an indicative programme for 2023/24.

The programme consists of both capital and revenue expenditure and is part of the Council's Asset Management Plan and delivery of the Parking and Access Strategy across the whole district.

The City of Winchester Movement Strategy recognises the importance of parking as a means to help manage traffic movements through the city and, as part of this objective, the need for additional park and ride provision has been identified. Parking management is also a tool to support wider traffic management which enables us to address the Climate Emergency and improve air quality.

The report also covers progress made in 2021/22 programme for maintaining and improving parking assets and sets out additional proposals for maintenance and enhancements of car parks for 2022/23 and beyond including proposals for digital transformation and customer service improvements in relation to parking services.

An update is provided within this report on works still to be delivered or that are no longer required as the business needs have changed. A key part of this has been the impact of, and the response to, COVID 19 which has had a significant effect on traffic levels, parking patterns, and driver behaviour. It has also had a direct impact on progress on a number of projects.

In addition, the County Council has indicated that subject to a formal decision in March 2022 that it intends to take back the traffic management and the on-street parking agency agreements. The proposals in this report have taken this into account, in terms of priorities and approach, and to reflect the likely arrangements

once the agencies have been transferred back to the County Council.

RECOMMENDATIONS:

That Cabinet:

1. Approve an additional budget of £70,000 (total £100,000) 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. Approve expenditure of £590,000 for the car park major works programme 2022/23 as outlined in appendix A.
3. Note the indicative programme for 2023/24 is yet to be fully defined subject to condition surveys and further evaluation work being completed.
4. Approve a change in relation to The Dean Car Park at Alresford from 47 to 42 spaces and approve expenditure of £1,005,000. See 14.2 below.
5. Delegate to the Head of Programme in consultation with the Corporate Head of Asset Management and Cabinet Member for Economic Recovery, authority 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.

IMPLICATIONS:

1 COUNCIL PLAN OUTCOME

- 1.1 On-going investment in the Council's parking infrastructure is consistent with the Council Plan in relation to delivering against the priorities of tackling the climate emergency and creating a greener district with better air quality, vibrant local economy and living well as managing our car parking offer, which includes investment in infrastructure, helps to influence customer choices and behaviour as well as supporting the local economy.
- 1.2 The planned works also help to underpin the adopted Parking and Access Strategy and take full account of the City of Winchester Movement Strategy (WMS). A report on the Electric vehicle charging strategy was considered by Cabinet in February 2020 (CAB3206) and is now being rolled out across the district.

2 FINANCIAL IMPLICATIONS

- 2.1 The total programme of works identified in this report amounts to £889,000 in 2022/23.
- 2.2 Of the total programme, approval for expenditure is sought for £590,000 in 2022/23. Of the proposed works, £150,000 will be funded from the capital receipts reserve with the balance to be funded from the car parks' property earmarked reserve. The balance of this reserve as at 31 March 2021 was £1,549,000.
- 2.3 The additional items such as the Dean car park, and works to the Chesil Multi-storey car park are significant works and are subject to separate business cases and approvals. Further detail is provided in the supporting information below.
- 2.4 Investing in parking infrastructure will reduce the risk of loss of income from parking charges, which helps to cover rising costs of management of our facilities, by ensuring that car parks are attractive and well used facilities and which are fit for purpose. This is an important component in implementing our Parking and Access Strategy across the District and will, in addition, help to prevent any claims against the Council resulting from accidents or other incidents in car parks.
- 2.5 COVID has had a significant effect on parking usage and therefore income. It is difficult at present to accurately quantify the long-term impact of COVID on parking patterns and therefore income resulting from changes in commuter and visitor behaviour, but the actions set out in this report are identified to ensure that the council is ready to respond when a return to more normal conditions occurs.

3 LEGAL AND PROCUREMENT IMPLICATIONS

- 3.1 Under section 1 of the Localism Act 2011, the Council has the power to undertake any activity a normal person could undertake, for the benefit of the authority, its area or persons resident or present in its area. The Council is satisfied it has the enabling power(s) to procure and award a contract for services following a robust procurement exercise.
- 3.2 The Council has an obligation as a best value authority under section 3 of the Local Government Act 1999 to “make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness” together with a duty of care to the public to ensure that both the car parks and park and ride facilities are safe to use and maintained in a condition that is fit for purpose. It is considered by officers that the proposed programme assists the Council to meet these requirements.
- 3.3 Any procurement for goods and services will be in line with the Council’s Contract Procedure Rules and Public Contract Regulations 2015 (PCR2015) and subsequent contracts managed in-line with the Council’s Contract Management Framework.

4 WORKFORCE IMPLICATIONS

The majority of works will be managed or delivered ‘in house’ by the Council’s Parking, Estates or Special Maintenance Teams. Delivering the programme of work included in this report will require officer time in order to plan, organise and to implement it.

5 PROPERTY AND ASSET IMPLICATIONS

Works are in line with the Council’s Asset Management Programme and reflect the operation of Council car parks.

6 CONSULTATION AND COMMUNICATION

The proposals in this paper are as set out in the Winchester Movement Strategy and the Parking and Access Strategy., and reflect the consultation results of both. The Parking and Access Strategy was agreed by Cabinet on 11th March 2020 and the Winchester Movement Strategy was approved by Cabinet on 20th March 2019.

7 ENVIRONMENTAL CONSIDERATIONS

Environmental considerations have informed the programme in terms of delivering measures which will help to reduce our carbon footprint in line with the Climate Emergency declaration and commitment to improve air quality in Winchester particularly in respect of energy efficient lighting systems, future provision of electric vehicle charge points, cycle parking and park and ride provision.

8 EQUALITY IMPACT ASSESSEMENT

- 8.1 An Equality Impact assessment has been undertaken in relation to the overall programme of works set out in appendix B of this report. A significant number of the Council's car parks have achieved Disabled Parking accreditation from Disabled Motoring UK. Individual actions which may have an impact on equality matters will be assessed on a case by case basis.

9 DATA PROTECTION IMPACT ASSESSMENT

All new projects such as introduction of a virtual permits system will note and adhere to any requirements regarding Data Protection and GDPR.

10 RISK MANAGEMENT

Risks are set out below.

| Risk | Mitigation | Opportunities |
|---|--|--|
| Property - failing to maintain Council property in an attractive and safe condition may lead to complaints, reduced usage and claims against the Council. | Continued inspection and associated investment to address defects means that car parks remain fit for purpose and are safe. | Opportunities to explore new technology in areas such as energy efficient lighting, emissions reductions and new build facilities and reduce costs whilst including measures, which address the Climate Emergency. |
| Community Support – Poor car parking will undermine confidence in the Council to support its communities. | Maintain and improve the parking offer. | Utilise the new RingGo contact for phone payments which offers significant benefits to customers and the council |
| Timescales | n/a | n/a |
| Project capacity, - – Inadequate resources result in a failure to deliver projects. | Additional staff employed on temporary contracts to deliver some projects where needed. | Potential for secondment opportunities for existing staff |
| Financial / VfM - failing to have safe and well managed car parks and reliable /working parking machines that give customers a range of payment options, may result in loss of income and detrimentally effect the implementation of the Parking & Access | Investment in replacing machines each year has taken place and this has enabled customers in all town centre car parks to have a range of payment options and ensured that customers are able to make payment. It also means that the Council's parking stock is Payment | Creates efficiencies and delivers customer aspirations enhancing the Council's reputation. Opportunity to generate income and customer improvements from the recently procured new RingGo contract. |

| | | |
|--|--|--|
| Strategy | Card Industry ['PCI'] compliant and will help to assist in achieving Digital Transformation Projects such as the new Council reception project. | |
| Legal - The Council has an obligation to maintain its car parks in a safe condition for all users. | Maintaining car parks in a safe condition helps to minimise claims from injuries and damage to vehicles; this helps to reduce any possible reputational damage and financial claims. | |
| Innovation, Missing opportunities to invest in new technology including energy efficient lighting would mean that the Council would fail to realise energy efficiencies/reductions in our carbon footprint and other savings. | The Council continues to investigate and implement lighting and other measures to improve the parking stock and to reduce energy consumption costs and the Council's carbon footprint. | |
| Reputation, Failing to maintain car parks and to carry out preventative and reactive repairs to an acceptable standard may damage the reputation of the Council and attract criticism from customers as well as reducing use and therefore income. | By carrying out a programme of condition surveys and other inspections and subsequent repairs, the Council will ensure it has attractive and safe car parks which will encourage use. | Safe and well managed car parks, should encourage additional use and will provide for the needs of all members of our communities. |

11 SUPPORTING INFORMATION:

- 11.1 The Parking and Access strategy is on the parking pages of the council's website. The Parking and Access Strategy was formulated alongside the Winchester Movement Strategy (WMS) to ensure it contributes to its core priorities of reducing city centre traffic, supporting healthier lifestyle choices and providing investment in infrastructure to support sustainable growth.
- 11.2 The Car Parks Major Works Programme sets out the spending plans for 2022/23 incorporating both capital and revenue costs. It consists of a variety of works including: building refurbishment; maintenance and equipment replacement; car park resurfacing and improvements; future parking provision; and new software solutions to improve efficiency and deliver

customer expectations, as well as improvements to reduce the Council's carbon footprint.

- 11.3 The programme set out in this report includes expenditure proposals for 2022/23 and an indicative programme for 2023/24 though it should be noted that condition surveys of the council's car parks are currently being undertaken and may require works to be added to the programme in 2023/24 as a result. For 2022/23 the total proposed programme including any carry forwards amounts to £889,000 of which £724,000 is classified as capital expenditure and £165,000 as revenue expenditure.
- 11.4 The programme set out in detail in Appendix A reflects the current needs and priorities of the Council and helps deliver the Council Plan in terms of its sustainable transport, asset management and broader strategic objectives. In particular this programme of works is:
- Encouraging a change in parking behaviour to support carbon and air quality objectives;
 - improving health and safety;
 - delivering our general obligations for maintenance and equipment replacement in relation to its assets;
 - additional cycle and car parking provision where appropriate;
 - digital transformation;
 - reducing the Council's energy consumption;
 - delivering enhanced customer service; and
 - reflecting the need to re-open after COVID.

12 **2021/22 Programme - Progress**

- 12.1 As an update on works that have taken place since the previous report to Cabinet in January 2021 (CAB 3284), the following projects have been undertaken or are in the process of being completed.

| | |
|-----------------|--|
| Virtual permits | Work has been paused on this project for residential on-street permit holders as the Council await further detail on proposed agency agreement changes with Hampshire County Council. However, the intention remains to introduce season tickets and staff permits on a virtual basis for 2022 issue |
| Tariff Changes | See additional paper to Members CAB3330, which sets out the intended changes in car parking charges from October 2022, and the intention to consult on the potential introduction of an Air Quality surcharge in due |

| | |
|--|--|
| | course. |
| Various car park improvement works | This budget has covered general maintenance of car parks including potholes and lining refreshments, which has contributed to safe operation of the car parks. These have included the re-lining of Worthy lane, South P&R, and Alresford car parks, opening the WSLP new car park, and managing covid related temporary parking arrangements. |
| Improved car park signs | Improved signage for Chesil MSCP has been planned and is in the process of being procured and installation arranged. Some additional directional signage to Chesil MSCP was installed before Christmas 2021. Pedestrian directional signage from the new car park at the former Vaultex site is also on order and will be installed shortly. |
| Electric Vehicle Charging at Various car parks | These are being rolled out now and are now being used, with usage increasing each month. December had over 1000 separate charging events with over 16000 kWh used. |
| New coach parking | A new coach parking facility has now been provided at South Park and Ride. |
| Park and Ride-Vaultex | The construction of a new decked park and rise car park adjacent to Barfields, at Bar End, is nearing completion and will provide 287 new park and ride spaces, as well as electric vehicle charge points powered by photovoltaic panels. |
| Winchester Sport & Leisure Park (WSLP) | WSLP opened in May 2021 and the car park is operating well, as part of the new facility. This includes EVCPs. |
| Park and ride | Smart card system being phased out which in the main this has included the removal of smart cards from large institutions as well as the public. However the introduction of the 'RingGo corporate scheme' has enabled companies and institutions to manage their car parking effectively. |
| Pay machines upgrade | Machines continue to be upgraded to provide PCI compliance in terms of security and customer service standards. Move to RingGo is showing significant reductions of cash in system therefore reducing costs further. |
| IMT | Automated Letter writing system for penalty charge notices paused due to resource constraints this year caused by COVID, but still intended for introduction in 22/23. |
| Brooks Centre car park | Scheduled core maintenance activities in this facility e.g. deep clean, painting, cleaning, bollards / general |

| | |
|---------------------------------|--|
| | improvements not completed during this financial year, due to COVID. |
| Smart phones | Planned for completion by the end of March 2022. Upgrade to next model for the Civil Enforcement Officers. |
| CCTV equipment/ system upgrades | Not able to progress in 2021/22, to be carried forward to 2022/23. |
| Cycle parking | New cycle lockers installed at South Winchester and Barfield park and ride sites. |
| Chesil Multi-storey car park | Chesil Multi-storey car park fire doors were replaced. |
| Parkmap | Implementation of a digitised system for traffic regulation orders is nearly complete |

13 Proposals for 2022/23

13.1 The total programme for 2022/23 is £889,000 and the indicative programme for 2023/24 is dependent upon work yet to be carried out. The major works are summarised below and listed in Appendix 1:

Improved air quality and lower carbon

- a) **Park and Ride improvements (£200k)**
Resurfacing and repair works are required in the park and ride car parks to improve usage, particularly at Barfields and St Catherines. Works in 2022/23 are expected to be £100,000 with the remainder carried out in 2023/24
- b) **To support cycling provision and study (£50K)**
To improve the provision of secure cycle parking and access across the District – with better provision for electric bikes, cargo bikes and improved CCTV coverage of bike parking areas. Separately we will survey interest in on-street bike hangars in residential areas. This will include carrying out study work as required as part of a Districtwide Local Cycling and Walking Improvement plan.
- c) **Improved car park signage (£35k)**
£50,000 was approved in 2021/22 to improve signage and encourage people to use better value parking outside the Air Quality Management Area and walk into the centre, and of this it is estimated that £15,000 will be spent in year with £35,000 being carried forward to 2022/23
- d) **Development and delivery of a parking and access strategy for the market towns (£25k)**
To improve condition and effectiveness of the main market towns in line with parking and access plans.

- e) **Chesil MS – additional CCTV (£25k)**
Additional CCTV is required at the Chesil MS car park in order to extend the coverage of the cameras to support improved usage of the park and walk car parks.
- f) **Bus access enhancements (£10k)**
As part of enhancing access an allocation is being made to help pump prime service enhancements, service extensions, or support the move to electric buses at park and rides at service retender during 2023. It may be that significant improvements will require further funding from the parking reserve.

Modern Payments and enforcement

- a) **Pay machine upgrade (£100k)**
To roll out contactless payments and vehicle registration number input to support the potential introduction of a differential charging scheme. NB differential charging is subject to a separate report also on this agenda.
- b) **Upgrade to public WIFI (£20k)**
To enable phone payment throughout large central car parks, which in turn reduces the need for machines and cash collection at high cost.
- c) **Civil Enforcement Officer equipment (£30k)**
To replace and enhance CEO equipment to ensure their safe and continuous operation, through new mobile phone and telemetry and video cameras.
- d) **Improved customer service (£10k)**
Purchase of letter response master system or equivalent (carried forward from 2021/22)

Accessible and safe

- g) **Garnier Road surfacing (£10k)**
Feasibility study, design and business case for an improved and possibly charged car park at Garnier Road with signage, more blue badge spaces and supporting enforcement, which would then enable better access to the Handlebar Cafe, Hockley viaduct, St Catherine's Hill and the Itchen Navigation Heritage Trail for people with limited mobility as well as better management of the car park.
- h) **Updates to CCTV system (£150k)**
The indicative estimate to update the CCTV system is likely to cost around £150,000, and would involve a project to replace and improve upgrades to the whole system to make it fit for purpose in the future

and including and allowing additional cameras to be connected, however project would flex depending upon what objectives are required for CCTV in the future.

- i) **CCTV – camera review and replacement programme (£75k)**
An estimated £75,000 has been included in the indicative 2023/24 programme for replacement CCTV cameras.
- j) **Car park repairs and remarking (£25k)**
Responsive repair and maintenance works across the Council's car parks as required throughout the year – including improved walking routes through car parks where appropriate.

13.2 The following major works are subject to separate approval:

- a) **Chesil Multi-Storey (£299k)** - £350,000 was approved for expenditure to carry out the next phase of enhancement which included the replacement of fire doors, refurbishment of the public conveniences, and the resurfacing of the top floor. The fire doors were replaced in 2020 at a total cost of £51,000 with the remaining works, the resurfacing and waterproofing of the top floor, expected to be completed in the first quarter of 2022/23.
- b) **Chesil Multi-Storey additional works** - the Capital Investment Strategy (February 2022 Cabinet) will include £400,000 (2023/24) to replace 2 lifts in the car park which are nearing the end of their useful lives and are no longer economical to repair. In addition a budget of £120,000 to replace the LED lighting throughout will be requested for 2024/25.
- c) **The Dean - New Alresford (£1,005,000)** as approved in CAB3005. Officers are working with the developer and the land agent to help bring forward a development at 13, The Dean, New Alresford, including a new public car park which is acceptable in planning terms and which provides suitable public car parking. These discussions are ongoing and a layout of a car park which will provide around 42 spaces to the rear of a new development off The Dean is being progressed. This proposal is in line with what was agreed by Cabinet (CAB3005) in January 2018. In that report it was envisaged that approximately 47 spaces would be provided and that the car park would be to the rear of the development. A change to approximately 42 spaces (subject to detailed design and planning approval) would not have a material impact on the ongoing financial implications, the business case or the car parking operation in the Town. This is in line with the agreed

masterplan for the area and Local plan Part 2 which *allocates this land at The Dean, Alresford for mixed use development, including provision of a new public car park of 50-100 spaces (policy NA2). It should also be noted that this reduction in spaces now ensures that the Council has direct access on land which it will own to the public highway on The Dean.*

If the car park could not be developed on this site in the short term there is a risk that no other opportunities for increased parking provision would arise which could service the town centre. Undertakings have been made by the promoters of various sites to make substantial developer contributions for acquisition of land at The Dean for a car park, either through S106 obligations or 'up-front' payments. The Council has also committed CIL funding for this purpose. If the scheme cannot be developed in the near future, and no other options become available, the Council would be under pressure to repay any contributions received and/or to revise legal agreements to remove this requirement.

As such it is felt that on balance it is sensible to accept a 42 space car park (subject to detailed design and planning approval) in the interests of the Town and to enable delivery of this scheme as soon as possible.

It is intended that a planning application will be submitted in the first part of 2022 and that the developer will hold a public exhibition of the proposal prior to submitting a planning application where all stakeholders including local businesses and representative groups can view and comment on the proposals. Completion of the land purchase is expected in 2023/24

- d) **The Brooks ventilation system (costs and timings to be defined but potentially c £1million)**
To replace the ventilation system which has been in operation since its opening. This is potentially a very significant cost, and will require investigation to identify the timing and value required and to ensure the parking reserve has the capacity to respond to this requirement.

14 OTHER OPTIONS CONSIDERED AND REJECTED

If we do not invest in decarbonisation and air quality initiatives we will fail to deliver core council priorities in both these areas

- 14.1 Not investing in Council car parks and their infrastructure may lead to financial loss if car parks are not able to be used or are unattractive to drivers. Losses may also result if accidents occur which generate successful claims against the Council. There is also a risk of reputational damage to the Council, and an

adverse impact on the city and market towns' economies, through lack of good quality parking provision which help to underpin these locations in terms of meeting business and visitor needs.

BACKGROUND DOCUMENTS:-

Previous Committee Reports:-

CAB 3070 Q1 FINANCE AND PERFORMANCE MONITORING 19th September 2018 (Brooks' lighting upgrade)

CAB3060 Q4 2017/18 FINANCIAL AND PERFORMANCE MONITORING 18th July 2018 (Virtual permits)

CAB3284 CAR PARKS MAJOR WORKS PROGRAMME 2021/22

Other Background Documents:-

[Winchester Movement Strategy](#)

[Winchester Parking and Access strategy -](#)

APPENDICES:

APPENDICES:

Appendix A – Proposed work programme for 22/23 and indicative programme for 23/24

Appendix B Equality impact Assessment (as attached as Appendix 2 to CAB3330)

APPENDIX A

**Proposed Car Parks Major Works Programme for 2022/23 and indicative
Programme for 2023/24**

| CAR PARK / ITEM | PROJECT | Capital | Revenue | TOTAL |
|-------------------------------------|---|----------------|----------------|--------------|
| <u>2022/23</u> | | £ | £ | £ |
| Garnier Road car park | Review of options to resurface to generate a safe and accessible car park. | | 10,000 | 10,000 |
| Improved car park signage | Carried forward from 2021/22 | | 35,000 | 35,000 |
| Park and Ride resurfacing | Phase 1 Resurfacing works. | 100,000 | | 100,000 |
| Chesil MS – CCTV | Additional CCTV required to extend coverage of cameras | 25,000 | | 25,000 |
| Pay machines upgrade | Replacing and improving PCI compliant pay machines and move to cashless parking for the replacement of “cash” machines with “contactless” only machines as part of the move towards “cashless” parking. | | 100,000 | 100,000 |
| Various Car Parks | Repairs and remarking | | 25,000 | 25,000 |
| Cycling provision | To improve the provision of secure cycle parking and access across the District | | 50,000 | 50,000 |
| Market towns | To improve condition and effectiveness of car parks in the main market towns | | 25,000 | 25,000 |
| Public WIFI | Upgrade to enable phone payment throughout large central car parks, which in turn reduces the need for machines and cash collection at high cost | 20,000 | | 20,000 |
| Civil Enforcement Officer equipment | To replace and enhance CEO equipment to ensure their safe and continuous operation, through new mobile phone radios and telemetry and video cameras. | 30,000 | | 30,000 |
| Improved customer service | Purchase of letter response master system or equivalent (c/f) | | 10,000 | 10,000 |
| CCTV | Software and equipment upgrade required – estimated cost of up to £150,000. More detailed consideration will be | 150,000 | | 150,000 |

| | | | | |
|---|---|------------------|----------------|------------------|
| | undertaken to confirm final costs. | | | |
| Bus access enhancements | | | 10,000 | 10,000 |
| Total expenditure to be approved | | 325,000 | 265,000 | 590,000 |
| Other works subject to separate approval | | | | |
| Chesil MS | Resurfacing and waterproofing of the top floor. Budget and expenditure has already been approved. | 299,000 | | 299,000 |
| | | 299,000 | 0 | 299,000 |
| TOTAL PROGRAMME | | 624,000 | 265,000 | 889,000 |
| <u>2023/24</u> | | £ | £ | £ |
| Park and ride resurfacing | To undertake second phase of resurfacing at Barfield Park and Ride | 100,000 | | 100,000 |
| CCTV | Camera review and camera replacement programme | 75,000 | | 75,000 |
| Other works subject to separate approval | | | | |
| Car Park at the Dean (Previously approved) | Acquisition of land and car park development, subject to planning related funding | 1,005,000 | | 1,005,000 |
| Chesil lifts | Replacement of the two lifts within Chesil park and Walk | 400,000 | | 400,000 |
| TOTAL PROGRAMME | | 1,580,000 | 0 | 1,580,000 |

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REPORT TITLE: RISK MANAGEMENT POLICY 2022/23 – ANNUAL REVIEW

9 MARCH 2022

REPORT OF CABINET MEMBER: CLLR CUTLER – DEPUTY LEADER AND
CABINET MEMBER FOR FINANCE AND SERVICE QUALITY

Contact Officer: Liz Keys Tel No: 01962 848 226

Email lkeys@winchester.gov.uk

WARD(S): ALL

PURPOSE

This report presents the annual review of the council's Risk Management Policy and Risk Appetite 2022/23. These define the council's arrangements for identifying and managing risks and its integration with corporate governance and performance management.

There have been updates and additions to the key risks that appear on the Corporate Risk Register over the course of 2021/22, resulting from the quarterly reviews by ELB and Audit and Governance Committee.

This report seeks consideration and approval of the reviewed Risk Management Policy and Risk Appetite Statement for 2022/23.

RECOMMENDATIONS:

1. That Cabinet approve the Risk Management Policy for 2022/23, its Risk Appetite Statement for 2022/23 and the appended Corporate Risk Register.

IMPLICATIONS:

1 COUNCIL PLAN OUTCOME

- 1.1 Effective use of risk management supports the council's management of threats and opportunities to achieve the priorities included in the Council Plan 2020-25.
- 1.2 Included in the Risk Management Policy is the Risk Appetite Statement for the council which supports members and officers in decision making by setting out where the council is comfortable taking different levels of risk, and which levels are unacceptable.

2 FINANCIAL IMPLICATIONS

- 2.1 None directly as a result of this report. However, where there is a potential increase in risk likelihood or impact identified, additional spend may be required to manage those risks properly and adequately. Budget approval would be subject to the processes set out in the council's Financial Procedure Rules.

3 LEGAL AND PROCUREMENT IMPLICATIONS

- 3.1 The council's Risk Management Policy is an important element of the overarching governance framework ensuring that the council has a robust process for evaluating risks as part of the decision-making process.
- 3.2 There are no direct legal or procurement issues arising from this report.

4 WORKFORCE IMPLICATIONS

- 4.1 Management of risk is an integral part of service delivery. Corporate Heads of Service are required to review risks with their management teams and specific project risk registers are established and maintained.

5 PROPERTY AND ASSET IMPLICATIONS

- 5.1 None.

6 CONSULTATION AND COMMUNICATION

- 6.1 Consultation on the content of the report has been undertaken with cabinet and in particular the Cabinet Member for Finance and Service Quality. Consultation has also taken place with the Audit and Governance Committee along with Executive Leadership Board (ELB).
- 6.2 The council's Audit and Governance Committee reviewed the draft Risk Management Policy 2022/32 at their meeting on 8 March 2022 and their comments were noted by the Cabinet Member for Finance and Service Quality.

7 ENVIRONMENTAL CONSIDERATIONS

8 None directly as a result of this report. However where there is an expected increase in environmental risk likelihood or impact, additional measures to manage those risks would be identified in the relevant business case before being approved.

9 EQUALITY IMPACT ASSESSMENT

9.1 The Council considers its duties under the Public Sector Equality Act when decision making. Equality Impact Assessments are undertaken at individual service level and no service leads have highlighted areas of concern for 2022/23 resulting from these assessments. Under the new Public Sector Equality Duty (PSED) policy, adopted by Council in January 2022, a full PSED review of all services will be undertaken.

9.2 This report details the overall risk approach, appetite and policy. There are no direct PSED issues arising from the content of this report.

10 DATA PROTECTION IMPACT ASSESSMENT

10.1 None required.

11 RISK MANAGEMENT

| Risk | Mitigation | Opportunities |
|---|--|---|
| <i>Property</i> | None | None |
| <i>Community Support</i> | None | None |
| <i>Timescales</i> | None | None |
| <i>Project capacity</i> | None | None |
| <i>Financial / VfM</i> | None | None |
| <i>Legal – ensuring that the council has robust risk management in place protects the council from Legal challenges</i> | Ensure that the risk management policy is up to date, reviewed regularly and adhered to. | Identify and mitigate against risk which may enhance the council's reputation |
| <i>Innovation – not realised</i> | The Risk Management Appetite allows for decisions taken to incorporate opportunities for innovation within clear parameters. | The Risk Management Appetite is specific to the different Council Plan priorities. |
| <i>Reputation – ensuring that the council has in place robust arrangements to manage its risks</i> | This report sets out the principles and arrangements for the council to manage its risks | A robust Risk Management Policy supports the council to identify, assess and manage its risks in a consistent and effective |

| | | |
|--------------|------|------|
| | | way |
| <i>Other</i> | None | None |

12 SUPPORTING INFORMATION:

- 12.1 This report is the updated Risk Management Policy for 2022/23 which sets out the council's approach to risk management details the arrangements for managing risk. The Policy forms part of the governance and performance management arrangements at the council.
- 12.2 The Policy sets out the framework for identifying the significant risks that are relevant to the achievement of the council's strategic and operational objectives; evaluating their potential consequences; and implementing the most effective way of managing and monitoring them.
- 12.3 In-line with best practice, the council evaluates its risks using a four-point scale for the likelihood or probability of the risk occurring and the impact caused should the risk occur. These are rated between low and significant. A score for each risk is then calculated using the four-by-four matrix with the lowest score being one and the highest sixteen.
- 12.4 Included as an appendix to the Policy is the council's Corporate Risk Register which includes the risks that are of greatest significance to the council in the context of the aims and objectives that are set out in the Council Plan 2020-25 (2021 edition). These risks are regularly reviewed by ELB and the last review was in February 2022 with no significant changes.
- 12.5 The corporate risks are currently considered to be:
- Capacity to deliver services.
 - Ensuring decisions are made on customer insight and engagement.
 - The need to ensure effective business continuity plans (including in response to a pandemic).
 - The need to maintain effective strategic partnerships.
 - The need to ensure financial resilience.
 - A focus on strategic planning for housing.
 - Protection against digital attacks through effective cyber security.
 - Responding to the Climate Emergency.
 - Responding to events caused by climate change.
- 12.6 A pandemic has not been identified as a risk in its own right as the impact is considered across the Corporate Risks. See 12.15 below for more detail.
- 12.7 More details of the causes, consequences and impacts of the corporate risks occurring are included in the Policy and these have been reviewed and updated over the course of 2021/22.

- 12.8 The main changes to the Risk Management Policy over the course of 2021/22 and as a result of this annual review are:

| Change Description | Reason |
|---|--|
| Risk added in relation to responding to events caused by climate change | Deemed to be an emerging risk that has an impact on the council and citizens. |
| Review of the RAG status on the risk heat-map | Best practice and better alignment to the council's risk appetite |
| Amendment of headings on the Corporate Risk Register and clarification of the meaning of terminology used | The internal audit in 2021/22 recommended a review of this and clarification of the meanings of the headings |
| Definition of 'risk' updated from previous HM Treasury 2008 definition | In-line with best practice ALARM ¹ definition. |
| Risk Sources reviewed | Risk sources grouped into categories and further guidance added in-line with best practice from ALARM and HM Government's Orange Book – 'Management of Risk – Principles and Concepts' |
| Risk impact ratings model reviewed | Moderate and Major financial impact threshold of £200k amended to £250k in-line with the council's Key Decision value |
| Risk Management annual cycle reviewed | Annual review updated to more appropriate time in the municipal year |

- 12.9 In addition, the committee report template is being updated to ensure risks associated with decision making are considered in a format that is consistent with the Risk Management Policy, particularly the potential sources of risk and the Risk Appetite.
- 12.10 Regular updates are reported to Audit and Governance Committee on the Corporate Risk Register and management actions in place to manage and/or mitigate the risks.
- 12.11 The Policy also includes the council's risk appetite statement, which sets out the level of risk the council is prepared to take whilst also making the most of opportunities and innovation when they arise. This has been reviewed and the

¹ ALARM is a not-for-profit professional membership association that has supported risk and insurance professionals in Public Service Organisations in the UK for 30 years

previous risk appetite, defined overall as 'moderate', is still considered to be appropriate. The council continues to tend towards exposure to only modest levels of risk in order to achieve acceptable outcomes. Further detail on the risk appetite is included in section 8 of the Risk Management Policy.

- 12.12 Risk management training took place in May 2021 with 35 officers from across Executive Leadership Board (ELB), Senior Leadership Team (SLT) and wider Management Forum attending. The Risk Management policy is signposted from the New Starters' Induction Pack.
- 12.13 Over the next 12 months training workshops are being planned in Risk Management for Cabinet, Members of Audit and Governance Committee and other Members.
- 12.14 A Risk Management Audit conducted by Southern Internal Audit Partnership (SIAP) in 2021/22 received a 'reasonable' assurance opinion. There were seven identified actions (4 medium priority and 3 low priority) and as a result all Corporate Heads of Service Operational risk registers are now being managed via risk management software which improves corporate visibility of any new and escalating risks and consistency in the format and frequency of the review of these.

COVID-19

- 12.15 This policy has been reviewed during the COVID-19 pandemic and to note is that the Corporate Risk Register includes the risks of staff capacity, financial viability, business continuity and cyber security all of which have the potential to be significantly affected by COVID-19.
- 12.16 The council's business continuity plans were reviewed and updated during spring 2021, ensuring that robust plans were in place to enable the council to continue to provide its services to residents, stakeholders and businesses during the pandemic. Business Continuity training took place in 2021 and was attended by managers and staff who are named in the plans for the fourteen business critical services. The aim of the training was to validate and test the business continuity plans for these services and this was successful, demonstrating that they were up to date and effective.
- 13 During the COVID-19 pandemic, the council has continued to provide all services with many staff working from home in accordance with the changing government guidelines. We have seen an increase in staff sickness but this has been proactively managed and no business continuity plans have needed to be implemented.

14 OTHER OPTIONS CONSIDERED AND REJECTED

- 14.1 Changing the risk appetite to reflect either a decreased or increased comfort with accepting different levels of risk, and determining which levels of risk are unacceptable.

BACKGROUND DOCUMENTS:-

Previous Committee Reports:-

CAB3245 - Risk Management Policy 2021/22

AG060 - GOVERNANCE QUARTERLY UPDATE – Q2 2021/22

AG054 - GOVERNANCE QUARTERLY UPDATE – Q1 2021/22

Other Background Documents:-

None

APPENDICES:

Appendix 1 Risk Management Policy 2022/23



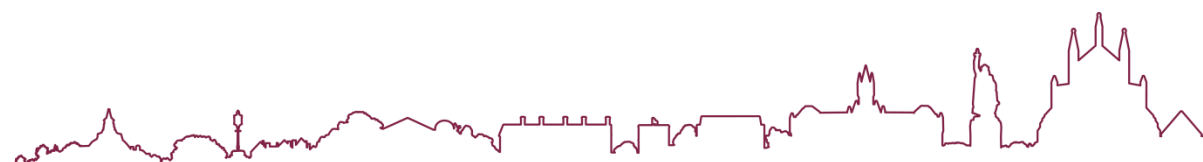
Winchester
City Council

Risk Management Policy

2022/23

| Version Control – Risk Management Policy 2022/23 | | | |
|--|--------------------------------|----------------------|------------|
| Version | 1.0 | Approved by | Cabinet |
| Date last amended | 01/03/2022 | Approval date | 09/03/2022 |
| Lead officer | Richard Botham S151 Officer | Review date | 01/03/2023 |

| Version History | | | |
|-----------------|-----------------------|--|--|
| Date | Version Number | Summary of Changes | Author |
| 18/01/2022 | 1.0 | Annual review and refresh in-line with best practice | Amy Tranah – Service Lead, Corporate Support |
| | | | |
| | | | |



1. Introduction

As part of Winchester City Council's arrangements to ensure good governance, the purpose of effective risk management is to provide assurance and that the council is 'risk aware'. This entails being able to identify risks, evaluate their potential consequences and determine the most effective methods of controlling or responding to them.

The council believes that risk needs to be managed rather than avoided and that consideration of risk should not stifle innovation and creativity.

This policy outlines the approach the council takes with regard to its responsibility to manage risks and opportunities using a structured, focused and proportional methodology. Risk management is integral to all policy and project planning and operational management throughout the council and integrates with our corporate governance and performance management.

This approach to risk management actively supports the achievement of the agreed actions, projects and programmes included as set out in the Council Plan 2020-25.

Risk can be thought of as possibility that an action or event will affect the council's ability to achieve its objectives or outcomes.

Good risk management is about identifying what might go wrong, assessing our level of tolerance towards that and then putting in place measures to prevent the worst from happening, or to manage the situation if something does go wrong. It is also about assessing what must be done to support achievement of the council's objectives and acting in a way that makes this more likely to happen.

2. Our corporate approach to risk management

Risk management is about providing assurance by being 'risk aware'. Risk is ever present in everything that we do and some risk taking is inevitable if the council is to achieve its objectives. Risk management is about making the most of opportunities when they arise and achieving objectives once those decisions are made. By being 'risk aware' the council is better placed to avoid threats and take advantage of opportunities.

The aim of our Risk Management Policy is to be fit for purpose, reflect our size and the nature of our various operations, and use our skills and capabilities to the full. Risk management is most effective as an enabling tool, so we need a consistent,

communicated and formalised process across the council. The council is a corporate member of ALARM, a not-for-profit professional membership association that has supported risk and insurance professionals in Public Service Organisations in the UK for 30 years and this policy has been developed in-line with best practice.

Robust project management processes and principles will enable identification of potential risks early in the process and set out how these can be managed. Staff training in project management and risk management principles is essential to embed good practices.

By embedding a culture of risk management into the council, members and officers are able to make effective decisions about services and the use of financial resources to ensure that the council's objectives are met.

An effective corporate approach to risk management will:

- Make it more likely that the council's priorities will be achieved
- Safeguard the organisation and provide assurance to members and officers
- Become part of every manager's competency framework, job description and performance appraisal
- Provide support to the overall governance of the organisation
- Improve decision making
- Identify issues early on
- Provide a greater risk awareness and reduce surprises or unexpected events
- Develop a framework for structured thinking
- Ensure better use of finances as risks are managed and exposure to risk is reduced
- Facilitate achievement of long-term objectives
- Ensure a consistent understanding of and approach to risks

3. Our risk management framework

Risk management is the process of identifying significant risks relevant to the achievement of the council's strategic and operational objectives, evaluating their potential consequences and implementing the most effective way of managing and monitoring them.

The framework and process arrangements supporting risk management at the council involve:

- A Risk Assessment Tool (section 4)

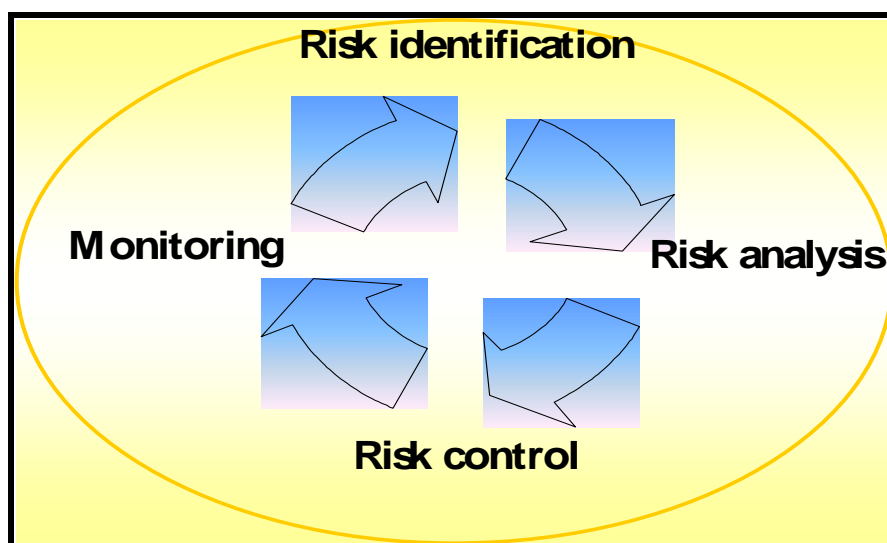
- Details of how risk management supports corporate planning and operational management (section 5)
- Risk appetite statement (section 8)
- Monitoring and review arrangements (section 10)
- A timetable linked to corporate programme (section 11)

4. Risk Assessment Tool

The Principles

The council generally manages risk effectively within the course of its normal operations through its management structure and governance arrangements.

Risk Assessment Tool



When identifying risks, it can be helpful to use the following sources of risk as prompts to ensure that all areas of risk are considered:

| Sources of Risk | Risk Examples |
|---|--|
| Property, Infrastructure and Assets: | Functioning of transport, communications and utilities infrastructure. The impact of storms, floods and pollution. Security and safety of property, plant equipment and infrastructure |
| Political, Legal and Regulatory: | Effects of change of government policy, UK legislation (where applicable), national or local political or control, meeting the administration’s Council Plan outcomes. Issues of timing. Following |

| Sources of Risk | Risk Examples |
|---|--|
| Professional judgement & activities Reputation | the organisation's stated/agreed policy. Legality of operations Risks inherent in professional work such as assessing clients' welfare or planning or response to the Equalities Act. Affecting the public standing or perception of the council, partnerships, or individuals in it (affecting you). Management of issues that may be contentious with the public or the media. |
| Technological | Capacity to deal with obsolescence and innovation, product reliability, development and adaptability or ability to use technology to address changing demands. Business continuity – ability to continue operations / service delivery if unable to access systems, property or with limited staff (e.g. pandemic). |
| Commercial: Competition & markets Contracts & partnerships | Affecting the competitiveness (cost and quality) of the service and/or ability to deliver value for money and general market effectiveness. Dependency on or failure of contractors to deliver services or products to the agreed cost and specification. Procurement contract and relationship management. Overall partnership arrangements, e.g. for pooled budgets or community safety. PFI, and regeneration. |
| People: Customer & Stakeholder – related People management & human resources | Satisfaction of: citizens, users, central and regional government and other stakeholders. Managing expectations – consulting & communication on difficult issues. Managing changes to services that may affect staff and/or ways of working. Resourcing the implementation of the option. Employment issues (TUPE etc.), Maintaining effective health & safety of staff and users. |
| Financial: | Risk of loss of capital or investment; or of committing the organisation to budgeted increased future costs. Risk of fraud or non-compliance with tax regulations. |

| Sources of Risk | Risk Examples |
|------------------------|---|
| Sustainability: | |
| Environmental | Environmental consequences arising from option (e.g. in terms of energy efficiency, pollution, recycling emissions etc.) |
| Social Factors | Effects of changes in demographic, residential and social trends on ability to deliver objectives. |
| Financial (Economic) | Costs, long term financial sustainability/ reliance on finite or vulnerable funding streams. Financial control, fraud and corruption. |

Note: Failure to manage risks in any of the above categories may lead to financial, reputational, legal, regulatory, safety, security, environmental, employee, citizen and operational consequences.

It is important to maintain a sense of proportionality with day to day risk and the following principles will be applied:

- Managers have a good understanding of their services and service developments, and are able to adequately identify the risks involved.
- Managers understand the limits that the organisation places on the action that can be taken by any individual officer. There is a general awareness of what management action is appropriate and where further consultation and approvals are required with colleagues and more senior managers. The organisation therefore recognises its risk appetite in relation to the decisions it takes.
- There is a good level of understanding of what risk it is acceptable to take during the normal course of work and the organisation recognises its risk appetite in relation to its ongoing activities.
- Unnecessary bureaucracy should be avoided, in particular by preparing documentation solely to demonstrate (rather than support or enhance) effective management. The cost (in terms of the time involved) relative to the benefit gained by defining every possible risk in detail and assigning impact and likelihood scores to each risk associated with every planned or current activity is deemed too great to be generally worthwhile. However where there are known concentrations of risk, such as in new service developments or relating to our programme of tier 1 projects, managers understand that they should document, monitor and manage these risks using the council's scoring framework. Similarly, the senior leadership team (or whoever is appropriate)

should seek to identify, assess and manage those risks that seem likely to cause problems or bring benefits at a corporate level.

- The internal audit team at the Southern Internal Audit Partnership (SIAP) work with the responsible Strategic Director and ELB to consider the council's assurance needs, and makes its own assessment of the internal audit work required to provide this assurance.
- Managers are encouraged and supported to consider the potential threats and opportunities involved in any new service developments and improvements, and to monitor ongoing performance. Documentation of risks, related controls and mitigating action plans should be considered where this is helpful and appropriate and, where this is the case, risk registers should be prepared. This is likely to be appropriate for specific service development projects, when project risk registers should be monitored closely by the lead project manager and sponsor.

It is the responsibility of all staff to assess risks associated with their work and projects and to escalate any potential existing or emerging risks which they feel cannot be managed within sensible parameters to the Executive Leadership Team (ELB). The Programme Management and Capital Strategy (PAC) Board review tier 1 project risks and will also seek to identify risks associated with other projects and the capital programme and to refer significant matters to ELB.

Identification of risks

ELB regularly reviews the Corporate Risk Register and decides if any risks need to be escalated, if there are any emerging risks or any risks that should be removed. Risk owners for corporate risks are generally a member of ELB. The Risk Register records a Risk Description, Risk Owner and details of potential causes, consequences and controls. The inherent risk should be assessed and recorded (the level of risk before treatment measures have been taken into consideration) and also the residual risk (the remaining level of risk after risk mitigation and control measures have been taken into consideration.)

The Corporate Risk Register is included as an appendix to the Risk Management Policy and formally agreed each year by cabinet. Audit and Governance Committee reviews the risks and policy to make comments to cabinet on the efficacy of the arrangements for managing risk at the council.

Service or operational risks are reviewed by the corporate heads of service on an ongoing basis and significant risks added to the relevant statement of assurance during the spring of each year.

The council's project management methodology is based on best practice frameworks including PRINCE2 and the Association of Project Management (APM). Incorporated within this methodology is a robust process for the management of project risks. Project risk registers are created for each new project and reviewed as part of the project life cycle.

Overarching project risks (for example, failure to deliver on a specific project) may be included in the corporate risk register if they are of sufficient importance at this level and/or the risks are being poorly managed for whatever reason. Tier 1 project risks are reviewed regularly by the PAC Board.

The Annual Governance Statement is also a key part of risk management and plays an important role in the identification and escalation of risks. The statement is produced following a review of the council's governance arrangements and explains how the council delivers good governance. Underpinning the statement are the individual statements of assurance which are completed by each service lead and includes details of significant risks for their service area. Risks which have additional corporate significance are escalated into the Annual Governance Statement which reads across into the Corporate Risk Register.

It is important for service leads to refer to this Policy when completing their statement of assurance and providing details of risks affecting the pursuit of the objectives of the team (although this is not the only time risks will be considered).

5. How risk management feeds into corporate planning and operational management

By embedding risk management into existing policy and service planning processes, members and officers are able to make informed decisions about the appropriateness of adopting a policy or service delivery option.

The information resulting from the risk management approach acts as one of the key pieces of information incorporated into the development of corporate, business and service plans. Risk management is an essential element in establishing policy, developing plans and enhancing operational management.

In order to formalise and structure risk management at the council, it is recognised that there are obvious and clear links between risk management and strategic objectives; financial planning; policy making & review and performance management. The linkages are as follows:

a) The Council Plan reflects the desired outcomes for the district, informed by consultation with the public and stakeholders and sets out the priority outcomes for the council and identifies the important issues that will be addressed over the life of the Plan through the work of the council and its partners. During the lifetime of the Plan there will be direct and indirect threats to the achievement of the outcomes and these are risks that must be properly managed.

b) As part of the annual planning process each team considers the key actions to be taken and targets for performance and corporate heads of service prepare strategic service plans for their areas. An assessment of the risks forms part of this planning which is an identification and prioritisation of the most significant risks faced in delivering the key priorities for the year, with actions identified to mitigate and manage these. These actions are then managed as part of the normal business of the team.

c) All staff have an annual appraisal which monitors progress being made and sets objectives for the coming year required to deliver service plan actions and achieve. As part of this, risk management is cascaded down to risk owners as an objective which aims to gain their support and awareness to ensure effective management of risk within the council. Risk Owners are required to review and update their risks quarterly. This process is managed via the council's Risk Management software with Risk Owners being prompted to update risks in accordance with the policy. This ensures corporate visibility of new, escalated and deescalated risks for reporting as appropriate.

d) Measurement of performance against the Council Plan outcomes, performance indicators and key tasks is achieved in a number of ways:

- In addition to day to day management, teams carry out a regular review of progress in their area, which includes assessment of progress against Council Plan actions, performance trends and risks. Where appropriate, exceptions are reported to the ELB for consideration and agreement of corrective action, if required.
- ELB also keep an overview of financial plans, with service performance and emerging risks with corporate risks being reviewed quarterly.
- The Scrutiny Committee, via the Performance Panel receives quarterly reports that provide an update on the progress achieved against the actions included in the Council Plan and any significant issues are raised with cabinet.

6. How do we evaluate risks?

The council evaluates its identified risks on a four-point scale on the likelihood or probability of the risk occurring and the impact caused should the risk occur being rated between low and significant.

The council has chosen to divide the rating into RAG bands as shown on the example risk map below.

| | | I M P A C T | | | |
|---------------------|---------------------|-------------|--------------|-----------|-----------------|
| | | Low (1) | Moderate (2) | Major (3) | Significant (4) |
| L I K E L I H O O D | Highly Likely (4) | | | | |
| | Likely (3) | | | | |
| | Unlikely (2) | | | | |
| | Highly Unlikely (1) | | | | |

Impact Rating

The following table provides the definitions which should be used when determining whether a risk would have a Low, Moderate, Major or Significant impact.

Impact is defined as the impact to the organisation should the risk materialise,

Each potential risk area should be considered and the highest impact scored should be the score (1-4) that is used to define the overall impact score.

| | Low (1) | Moderate (2) | Major (3) | Significant (4) |
|-----------|----------------|----------------------------------|----------------------------------|-----------------|
| Financial | Less than £20K | £20k or over and less than £250K | £250K or over and less than-£2MK | £2M plus |

| | | | | |
|-------------------|------------------------------------|--|--|---|
| Service Provision | No effect | Slightly Reduced | Service Suspended Short Term / reduced | Service Suspended Long Term Statutory duties not delivered |
| Health & Safety | Sticking Plaster / first aider | Broken bones/illness Lost time, accident or occupational ill health | Loss of Life/Major illness – Major injury incl broken limbs/hospital admittance. Major ill health | Major loss of life/Large scale major illness |
| Morale | No effect | Some hostile relationship and minor non cooperation | Industrial action | Mass staff leaving/Unable to attract staff |
| Reputation | No media attention / minor letters | Adverse Local media | Adverse National publicity | Remembered for years |
| Govt relations | One off single complaint | Poor Assessment(s) | Service taken over temporarily | Service taken over permanently |

Likelihood Rating

Likelihood is the chance of a risk materialising.

It is unlikely that in many cases the probability of a risk occurring can be calculated in a statistically robust fashion as we do not have the data to do so. However, as an indicator, the likelihood is defined by the following probability of a risk occurring:

| Likelihood | Probability |
|---------------------|-------------------------------|
| Highly Unlikely (1) | 1% to 25% chance in 5 years |
| Unlikely (2) | 26% to 50% chance in 5 years |
| Likely (3) | 51% to 75% chance in 5 years |
| Highly Likely (4) | 76% to 100% chance in 5 years |

7 How we respond to risks

Once a risk has been identified, the council need to decide and agree what it is going to do about it. The recognised approaches to controlling risks are described as the five key elements or 5 T's; Tolerate, Treat, Transfer, Terminate and Take the opportunity. These are described in more detail below. It is generally accepted that

where a risk can be reduced through some form of treatment or mitigation in a cost-effective fashion then it is good to do so.

As a general principal once a risk has been identified, consideration needs to be given to the five T's and that the chosen approach is seen as being cost-effective so that the control of the risk is not disproportionate to the expected benefits.

The five T's are:

- Treatment** By far the greatest number of risks will be addressed in this way by using appropriate control counter measures to constrain the risk or reduce the impact or likelihood to acceptable levels. Examples include strategy, process, people or systems improvement.
- Transfer** For some risks the best response may be to transfer them and might be done by transferring the risk to another party to bear or share the risk; e.g. through insurance, contracting or entering into a partnership. Reputation risk can never be transferred.
- Tolerate** Where it is not possible to transfer or treat the risk, consideration needs to be given to how the consequences are managed should they occur. This may require having contingency plans in place, for example, Business Continuity Plan which creates capacity to tolerate risk to a certain degree.
- Terminate** Some risks will only be treatable, or containable to acceptable levels by terminating the activity that created them. It should be noted that the option of termination of activities may be severely limited in government when compared to the private sector; a number of activities are conducted in the government sector because the associated risks are so great that there is no other way in which the output or outcome, which is required for the public benefit, can be achieved. This option can be particularly important in project management if it becomes clear that the projected cost / benefit relationship is in jeopardy.
- Take the Opportunity** This option is not an alternative to those above; rather it is an option which should be considered whenever tolerating, transferring or treating a risk. There are two aspects to this. The first is whether or not at the same time as mitigating threats; an opportunity arises to exploit positive impact. For example, if a large sum of capital funding is to be put at risk in a major project, are the relevant controls judged to be good enough to justify increasing the sum of money at stake to gain even greater advantages? The second is whether or not circumstances arise which, whilst not generating threats, offer positive opportunities.

For example, a drop in the cost of goods or services frees up resources which can be re-deployed.

8. Risk Appetite

ALARM defines risk appetite as *“The amount of risk to the organisation, or subset of it, it is willing to accept.”* (Source: ALARM Risk Management Toolkit 2021).

A clearly understood and articulated risk appetite statement assists with the risk awareness for the council and supports decision making in pursuit of its priority outcomes and objectives.

The council’s Risk Appetite Statement is an integral part of its Risk Management Policy and ensures that the opportunities the council is willing to take to achieve its strategic outcomes and objectives are measured, consistent and compatible with the capacity to accept and manage risk and do not expose the council to unknown, unmanaged or unacceptable risks.

This statement will be reviewed and approved by cabinet annually. The approved statement will be included as an appendix to the Risk Management Policy. The council may decide to move the appetite up or down based on a number of influencing factors including financial and capacity, and the council may have a higher ‘aspirational’ risk appetite once sufficient assurance is gained and processes put in place to manage the higher levels of risk.

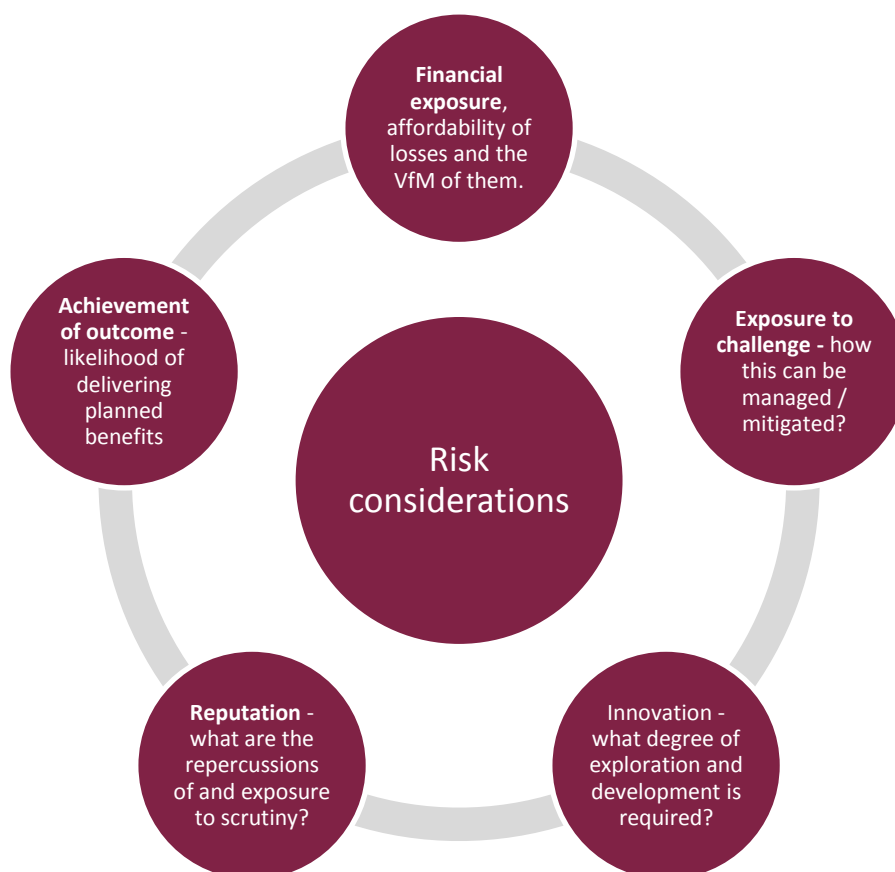
Risk management is about being ‘risk aware’. Risk is ever present in everything that we do and some risk taking is inevitable if the council is to achieve its objectives. Risk management is about making the most of opportunities when they arise and achieving objectives once those decisions are made. By being ‘risk aware’ the council is better placed to avoid unforeseen problems and take advantage of opportunities that arise.

We recognise risk management as a vital activity that underpins and forms part of our vision, values and strategic objectives, (including operating effectively and efficiently), as well as providing confidence to our community.

The council's Risk Appetite 2022/23

The council will take fair, measured and targeted levels of risk to achieve the priority objectives included in the Council Plan. There will be opportunities for the council to be innovative or work differently and any identified risks will need to be considered against the anticipated cost and efficiency benefits.

When analysing the risk associated with decisions, the council considers the parameters around five key areas of risk, illustrated in the following diagram.



The Risk Appetite Statement supports members and officers in decision making by setting out where Cabinet is comfortable accepting different levels of risk, and which levels of risk are unacceptable. The council's risk appetite should be considered in conjunction with the risk section of all committee reports when decisions are made.

The council's current overall risk appetite is defined as MODERATE (see table below for definitions). This means the council remains open to innovative ways of working and to pursue options that offer potentially substantial rewards, despite also having greater level of risks. However, the council's preference is for safe delivery options which have a lower degree of risk, especially for those services required by statute.

| Risk Appetite Definitions | |
|---------------------------|---|
| Avoid | No appetite. Not prepared to take risk. |
| Adverse | Prepared to accept only the very lowest levels of risk, with the preference being for ultra-safe delivery options, while recognising that these will have little or no potential for reward/return. |
| Cautious | Willing to accept some low risks, while maintaining an overall preference for safe delivery options despite the probability of these having mostly restricted potential for reward/return. |
| Moderate | Tending always towards exposure to only modest levels of risk in order to achieve acceptable outcomes. |
| Open | Prepared to consider all delivery options and select those with the highest probability of productive outcomes, even when there are elevated levels of associated risk. |
| Hungry | Eager to seek original/creative/pioneering delivery options and to accept the associated substantial risk levels in order to secure successful outcomes and meaningful reward/return. |

Risk appetite is not a single, fixed concept and there will be a range of appetites for different risks which may vary over time. The council's risk appetite by corporate priority and guiding principles are set out below:

| Council Plan Priority | Risk Appetite | |
|--------------------------------|---------------|--|
| Tackling the climate emergency | Moderate | Maintaining good levels of standards we tend towards exposure to modest levels of risk in order to achieve acceptable outcomes. |
| Homes for all | Open | We invest when there is a good likelihood of return and opportunities to grow, choosing innovative options in order to deliver a significant contribution. |
| Living well | Moderate | Often working with partners we will continue to encourage and deliver; usually taking moderate to low risk options. |
| Vibrant local economy | Moderate | Promoting and supporting opportunities we tend towards exposure to modest levels of risk in order to achieve satisfactory outcomes. |
| Your services, your voice | Cautious | It is important the council is getting its best from available resources whilst ensuring long term sustainability. We will seek best use of our resources, and generation of alternative funding in order to protect services. |

9. Risk Registers

Individuals view risk in different ways, based on past experiences, personal beliefs and outlook, which impact risk perception. Having a structure and process improves consistency and alignment, ensuring a clear consensus on the prioritised risks facing an organisation, recorded in a risk register.

Risk registers are reference documents that summarise the different risks that might occur and record the potential impact to the council. Just because a risk is included on the risk register does not mean that the council thinks it will happen, but it does mean that the council thinks it is worth seeking to manage. The risk score is, therefore, based on a 'reasonable worst case scenario'. The methodology for the scoring of risks is included in section 6 above.

The council maintains several risk registers and these are:

- Corporate Risk Register – this register records the most significant risks for the council or those risks which may prevent the council from achieving its strategic objectives as set out in the Council Plan. Corporate Risks are managed by ELB.
- Operational Risk Register – includes risks that might affect the delivery of individual services, but would not in isolation threaten the council's overall objectives. Operational risks are managed by the Corporate Heads of Service.
- Project and Programme Risk Registers – provides a register of the risks that if they occur have a positive or negative effect on the achievement of the project's and programme objectives. Project and Programme risks are managed by Project or Programme Managers.

10. How we monitor and report risk

Risk management must be embedded into decision making, business planning and performance management arrangements so that it is central to the way the council works. It contributes to the concept of 'No Surprises', 'Getting it right first time' and 'Having a Plan' which will be useful should the unexpected happen.

The framework of monitoring and reporting has been developed using the council's performance management software; Pentana, which is able to record the risks onto the system with the relevant risk owner having access so that monitoring and updating can take place.

This requires:

- ELB monitors and reviews progress against corporate risks as part of its quarterly monitoring meeting, making a judgement on any risks referred for

escalation and identifying any risks that can be moved to operational risk registers. Results of these reviews will form part of the regular monitoring report submitted to the Audit and Governance Committee and reported to cabinet if decisions on any procedure or policy changes are needed.

- The Audit and Governance Committee receives regular monitoring reports that provide assurance that the risks identified on the Corporate Risk Register are being adequately managed. The Audit and Governance Committee may decide to receive in-depth reports for the most significant risks on the register or risks that are causing concern.

If at any time a risk other than those on the Corporate Risk Register (for example an operational risk) is scored 'red' full details should be presented to the next ELB meeting for further consideration and approval of appropriate mitigation action and controls if required. This may include escalation to the Corporate Risk Register.

All council committee reports include a section titled "Risk Management". The purpose of this paragraph is for the author to demonstrate and provide evidence that the risks associated with the content of the report have been properly identified, assessed and evaluated. The table in this section is split into categories of potential risk sources. Reference should also be made to the council's Impact Score Matrix to support decision making. When taking decisions, the identified risks should be considered against the council's risk appetite which sets out the amount and type of risk that the council is prepared to seek, accept or tolerate.

11. Timetable

Risk management is an integral part of corporate governance, and in particular is closely linked with performance management. Therefore the cyclical timetable for risk management follows that of the performance management framework:

| When | Who? | What? |
|-----------------|----------------------------|---|
| Winter / Spring | Executive Leadership Board | <ul style="list-style-type: none"> • Quarterly review of Corporate Risk Register • Budget and Service Plan risks considered • Reviews and comments on the draft Risk Management Policy and Risk Appetite Statement and for the coming year |

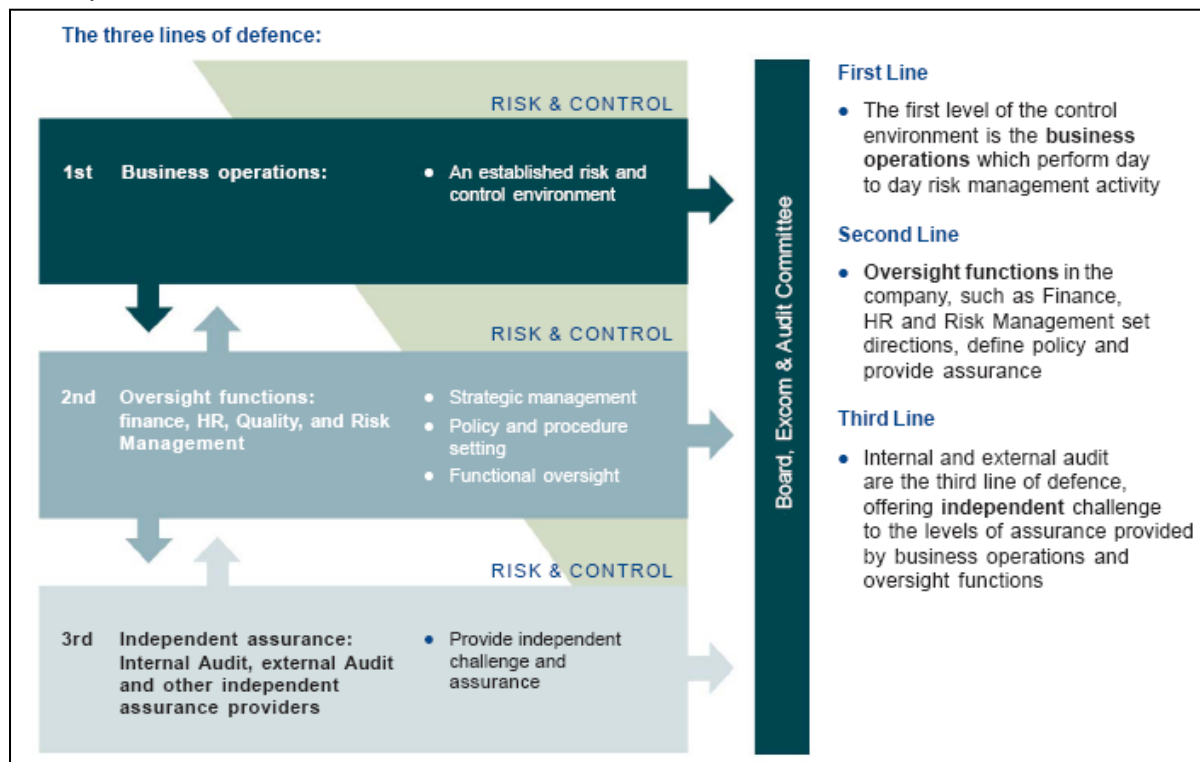
| When | Who? | What? |
|---------------------|--------------------------------|---|
| | Audit and Governance Committee | <ul style="list-style-type: none"> Review the Corporate Risk Register and monitoring report Reviews and comments on the draft Risk Management Policy and Risk Management Appetite for the coming year |
| | Cabinet | <ul style="list-style-type: none"> Approval of updated Risk Policy for the forthcoming year Approval of Risk Appetite for forthcoming year Approval of Corporate Risk Register |
| Summer | Executive Leadership Board | <ul style="list-style-type: none"> Quarterly review of Corporate Risk Register |
| | Audit and Governance Committee | <ul style="list-style-type: none"> Review the Corporate Risk Register and monitoring report In-depth update for significant corporate risks as requested |
| Autumn | Executive Leadership Board | <ul style="list-style-type: none"> Quarterly review of Corporate Risk Register |
| | Audit and Governance Committee | <ul style="list-style-type: none"> Review the Corporate Risk Register and monitoring report |
| Throughout the year | Executive Leadership Board | <ul style="list-style-type: none"> Quarterly review of Corporate Risk Register New, emerging and escalated risk reviewed as required |
| | Audit and Governance Committee | <ul style="list-style-type: none"> Receives update report for Corporate Risk Register Review and update Risk Policy |

12. Risk Management roles and responsibilities

The three lines of defence concept is widely known among the insurance, audit and banking sectors as a risk governance framework. The concept can be used as the primary means to demonstrate and structure roles, responsibilities and accountabilities for decision making, risk and control to achieve effective risk management, governance and assurance.

The following table is an example of the three lines of defence concept.

Example: Three line of defence model



First line of defence:

As the first line of defence, Service Leads or service managers own and manage risks within their service area. They are also responsible for implementing appropriate corrective action to address, process and control weaknesses.

Service Leads are also responsible for maintaining effective internal controls and managing risk on a day to day basis. They identify, assess, control and manage risks ensuring that their services are delivered in accordance with the council's aims and objectives.

Second line of defence:

The second line of defence relates to the strategic direction, policies and procedures provided by the council's oversight functions (e.g. Finance, Legal Services, Procurement and HR). These teams are responsible for defining policies, setting direction, ensuring compliance and providing assurance.

Included within the Anti-Fraud and Corruption Policy is the council's Whistleblowing Policy which encourages staff to report concerns which may expose the council to risk.

Third line of defence:

Internal Audit is an independent, objective assurance and consulting activity designed to add value and improve the organisations operations. It helps the council accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.

The aim of internal audit's work programme is to provide assurance to management, in relation to the business activities, systems or processes under review that the framework of internal control, risk management and governance is appropriate and operating effectively; and risks to the achievement of the council's objectives are identified, assessed and managed to a defined acceptable level.

Such risks are identified through senior management liaison and internal audits own assessment of risk. External audit, inspectors and regulators also provide assurance on the management of risk and delivery of objectives.

S151 Officer:

In addition to the 3 main lines of defence, there is the role of the S151 Officer. CIPFA outlines one element of the role as, "demonstrates integrity by being based on robust systems for identifying, profiling, controlling and monitoring all significant strategic and operational risks"

Other Specific Responsibilities

| Who | What |
|----------------|--|
| Members | Elected members are responsible for governing the delivery of services to the local community. Members have a responsibility to understand the strategic objectives and risks that the council faces, and will be made aware of how these risks are being managed. |
| Cabinet | <ul style="list-style-type: none"> • To ensure that effective arrangements are in place throughout the council and these are kept up to date, • Approving the council's Risk Management Policy and Risk Appetite, • Monitoring the council's risk management and internal control arrangements via an exception reporting process, • Ensuring the effectiveness of the risk management and internal control framework. |

| Who | What |
|--|--|
| Audit and Governance Committee | The Audit and Governance Committee's role is to provide independent assurance on the adequacy of the risk management framework, the internal control environment and the integrity of the financial reporting and annual governance, and to monitor the effective development and operation of risk management and corporate governance in the council. |
| Executive Leadership Board (ELB) | <p>ELB is pivotal in promoting effective risk management and ensuring that it is embedded in the culture of the council. The key responsibilities for the Chief Executive, S151 officer and ELB are:</p> <ul style="list-style-type: none"> • Promoting the implementation of the council's risk management arrangements on a corporate basis • Supporting and promoting the benefits of effective risk management throughout the council • Supporting the identification and assessment of risk on an ongoing basis • Annually review the Corporate Risks to be presented to Cabinet |
| Programme and Capital (PAC) Board | Regularly reviews the council's tier 1 project risk registers and oversight of programme management |
| Corporate Heads of Service, Service Leads and Senior Managers | <p>Senior managers have responsibility for minimising and managing risk within their teams. They will demonstrate their commitment to risk management through:</p> <ul style="list-style-type: none"> • Being actively involved in the identification and assessment of risks • Developing relevant action plans for the key risks and establishing relevant performance indicators to measure their performance through the performance management framework • Incorporating the risk management process into business/service planning processes • Monitoring the Teams' risks regularly and on no less than a quarterly basis • Encouraging staff to be open and honest in identifying risks or potential opportunities • Ensuring that the risk management process is part of all major projects and change management initiatives • Ensuring that the risk management process is part of |

| Who | What |
|--|---|
| | <p>all major procurements and contract management activity</p> <ul style="list-style-type: none"> Monitoring and reviewing action plans regularly to effectively treat risks |
| Risk and Insurance Support | <ul style="list-style-type: none"> Facilitate and support the procurement of the council's insurance programme and the management of claims. Support managers in understanding where risk can be transferred by the use of insurance mechanisms |
| Service Lead – Corporate Support | <ul style="list-style-type: none"> Provide risk management support across the council, Provide assistance with and prepare management reports. Support the Executive Leadership Board and senior managers on risk related issues. |
| All staff | <p>All staff have the responsibility for council risks and must understand their role in the council's risk management arrangements. Training and support is provided at the staff induction and periodically.</p> <p>All staff are expected to know how to recognise, assess and evaluate risk, when to accept risk and to recognise that risks can create opportunities for the council.</p> |
| Southern Internal Audit Partnership | <p>The role of the Southern Internal Audit Partnership who act as the council's Internal Auditors is that of an independent, objective assurance and consulting activity designed to add value and improve the organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes. It will be responsible for undertaking an assessment of the council's risk management and internal control mechanisms as part of the review of corporate governance arrangements.</p> |

Everyone involved in risk management has a responsibility to identify learning from risks and their management.

Corporate Risk Register

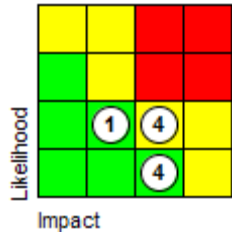
Significant risks have been reviewed by ELB and the following table provides details of the risks that are included on the Corporate Risk Register for 2022/23.

Corporate Risk Register 2022/23



As of 9 March 2022

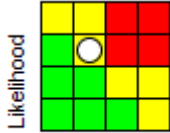
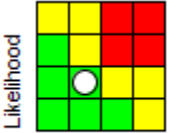
Residual risk summary:

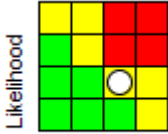
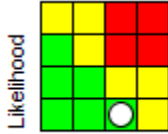


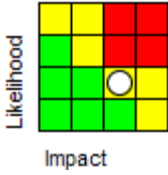
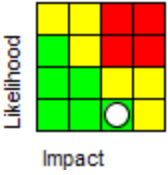
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| Code | Risk Description | Risk Owner | What might go wrong? | What will happen? | Original (Risk Rating (inherent)) | Current Controls | Residual Risk |
|-------|--|-----------------|---|---|-----------------------------------|--|---------------|
| CR001 | Given competing demands and multiple complex priorities, the risk is that the council does not maintain capacity to deliver services | Chief Executive | Ambitious council plan with multiple strands of activity Staff resources are lean and teams are working at capacity to deliver services at current levels of demand Outbreak of a pandemic that increases the pressure to continue to provide critical services as well as respond to the | If decision making is slow, delays occur and potentially available resources are redeployed or become unavailable if they are externally sourced. Implementation of business continuity plan to target work in critical areas in cases of staff shortage. If staff lack | | Council Plan is distilled into key priorities by service. If capacity becomes an issue, prioritisation of activity is in place Checks in place to ensure proactive approach to communications internal and external Flexible working arrangements to enable staff to balance | |

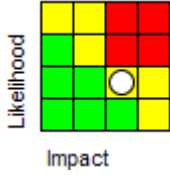
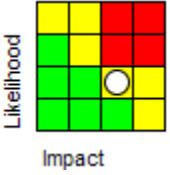
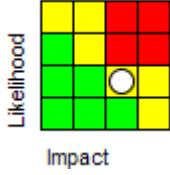
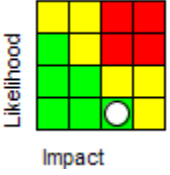
| Code | Risk Description | Risk Owner | What might go wrong? | What will happen? | Original (Risk Rating (inherent)) | Current Controls | Residual Risk |
|------|------------------|------------|---|--|-----------------------------------|--|---------------|
| | | | <p>needs of residents and businesses affected by the pandemic Cultural desire to 'go the extra mile' leading to additional strain on resources and potential errors Competition from the private sector for key staff roles e.g. planning, project management Officers not sensitive to the political reality and perhaps focus on 'old' priorities Decision making can be slow, Middle management too rule driven and need to be more responsive Reluctance to "just do it" Tension between day-to-day and strategic priorities Key skills not in</p> | <p>political awareness, middle managers will be slow to redeploy resource to current priorities If staff are diverted then can't deliver on other lower-level priorities or day-to-day things Reputation is damaged as the council is not seen to be able to complete projects Local members are not always kept informed of activity in their area Unable to deliver key council services</p> | | <p>home/work commitments Maintaining communication Annual Service Planning Regular meetings with relevant cabinet members Positive use of fixed term contracts to aid flexible resourcing Targeted use of external resource Reallocation of human and financial resources across and within the organisation as required GOLD command review resources on a regular basis</p> | |

| Code | Risk Description | Risk Owner | What might go wrong? | What will happen? | Original (Risk Rating (inherent)) | Current Controls | Residual Risk |
|-------|--|--|---|---|---|--|---|
| | | | the right place | | | | |
| CR003 | Decisions made by the council are challenged due to a lack of a strong evidence base, customer insight and engagement with change or procedural errors | Strategic Director and Monitoring Officer LK | Lack of skill to identify evidence to support decision making Lack of consultation with ward members and/ or parish council's over local issues Procedural error in statutory process Inconsistent and traditional approach to customer engagement across the council Lack of awareness of the questions to ask Lack of awareness of the 'right time' to engage Lack of public awareness that opportunity to engage Council is not aware of the full range of interested | Lack of a robust and evidence based approach to customer engagement can lead to o Reputational damage o Views that the council is too Winchester-centric o That decisions made are inequitable o There is a perception that people's views are ignored Without a robust and evidence based engagement process the council is exposed to risk of challenge on decisions Ward members and/or parish council's not being informed Legal/ judicial review or |  <p>Likelihood</p> <p>Impact</p> | <p>Consultation with ward and parish councillors (on matters within their ward or parish) Risks with regard to significant projects are recognised and addressed separately via robust Project Management and regular reports to the Programme and Capital Strategy Board Legal and Monitoring Office consultation on decisions made Residents' survey completed early 2019 A we asked ... you said ... we did feedback approach A council wide data capture exercise completed Comms approach</p> |  <p>Likelihood</p> <p>Impact</p> |

| Code | Risk Description | Risk Owner | What might go wrong? | What will happen? | Original (Risk Rating (inherent)) | Current Controls | Residual Risk |
|-------|---|--|---|---|---|---|---|
| | | | stakeholders Council may only hear the loudest voices and not the silent majority or those that do not readily engage | challenge against a decision made | | reset to simplify language and remove data jargon Move to proactive openness and transparency A more inclusive approach to engagement that also considers the restrictions in place due to the pandemic | |
| CR004 | Failure to have plans and processes in place to recover and maintain services after a major incident (including pandemic) that has had a significant impact on the ability of the Council to provide its services | Strategic Director and Monitoring Officer LK | Not maintaining an effective corporate wide Business Continuity Plan Not regularly testing of plan and follow-up Key staff unavailable Communication systems ineffective Lack of awareness Failure to assess business critical functions and have plans in place | Unacceptable delay and uncertainty in returning to normal working after an emergency Adverse publicity and criticism Reputation damage Adverse social impact |  <p>Likelihood</p> <p>Impact</p> | Business Continuity Plans reviewed in 2021 Annual testing of IT Disaster Recovery Plan Critical services identified with individual business continuity plans Review of business critical services in 2021 and individual business continuity plans updated. Back up temporary office accommodation |  <p>Likelihood</p> <p>Impact</p> |

| Code | Risk Description | Risk Owner | What might go wrong? | What will happen? | Original (Risk Rating (inherent)) | Current Controls | Residual Risk |
|-------|-------------------------------|-----------------------|--|---|---|--|---|
| | | | | | | at Hyde Lodge All staff able to seamlessly work from home, where job allows Recent (2020) internal audit resulting in substantial opinion and no identified weaknesses | |
| CR006 | Effective partnership working | Strategic Director DA | Partnerships can falter due to lack of shared vision within partnerships Strategic partnerships may falter due to conflicting demands within individual partners Failure within procurement process Partnerships may be unsuccessfully commissioned due to lack of procurement skills and poor scoping. Significant local, regional or national partners | Significant project delivery such as the major projects and the new home building programme may fail due to failed of strategic partnerships Local delivery may fail if local strategic partners are not aligned. Reputational damage to all partners |  | Annual review of all partnerships undertaken to identify key strategic partners Introduction of annual performance reporting for significant partnerships |  |

| Code | Risk Description | Risk Owner | What might go wrong? | What will happen? | Original (Risk Rating (inherent)) | Current Controls | Residual Risk |
|-------|---|--|--|--|-----------------------------------|---|---------------------------------|
| | | | may close down, affecting council | | | | |
| CR007 | Lack of sufficient funding and/or escalating costs over the medium term reducing financial viability and inability to achieve a balanced budget | Strategic Director and S151 Officer RB | <p>Reduced Government funding</p> <p>Reliance on strategic partners to deliver services and projects</p> <p>Macro economy, including effects of Brexit, reduces locally generated Business Rates and parking income</p> <p>Failure to achieve income targets</p> <p>Inflation rises</p> <p>Penalties are imposed on the Council due to falling standards in services</p> | <p>Unable to balance the budget</p> <p>Increased Council Tax</p> <p>Public's ability to pay for services</p> <p>Reduce services provided</p> <p>Demand/ cost of services</p> <p>Increased construction costs and impact on delivery and viability of key projects</p> <p>Over borrowing and avoidable cost</p> | <p>Likelihood</p> <p>Impact</p> | <p>One year funding settlement in place</p> <p>MTFS approach setting out medium and longer term options</p> <p>Quarterly finance reporting and monitoring of key income sources</p> <p>Regular policy review and monitoring</p> <p>Scenario planning and sensitivity analysis of key risks</p> <p>Transformation programme to set out cost review</p> <p>Maintain General fund reserve of at least £2m</p> <p>Regular review of reserves</p> <p>Annual review of fees and charges</p> | <p>Likelihood</p> <p>Impact</p> |

| Code | Risk Description | Risk Owner | What might go wrong? | What will happen? | Original (Risk Rating (inherent)) | Current Controls | Residual Risk |
|-------|---|--|---|--|---|---|---|
| CR008 | Availability of suitable sites to meet the strategic need for building new homes | Strategic Director and S151 Officer RB | Increasing demand for new houses High cost of housing, including private rented sector Slow completion for building of new homes Unable to identify new sites for new houses | Increased housing waiting list numbers Difficulty accessing housing markets Outward migration of younger residents Adverse publicity Government intervention |  <p>Likelihood</p> <p>Impact</p> | Plans in place to deliver significant new homes Regular monitoring of projects Revised Housing Strategy |  <p>Likelihood</p> <p>Impact</p> |
| CR009 | Failure in cyber security leaving the council exposed to phishing and other attacks leading to compromised IT systems and data loss | Strategic Director and Monitoring Officer LK | Malicious attack by Hackers for financial gain; Malicious attack by Hackers to disrupt business and ability to deliver services; Viral code attack in order to data mine information and identities | Possible complete shutdown of Council IT Systems and Infrastructure; Business/service delivery disruption; Significant Financial loss; Credibility and confidence lost in engaging with digital services and e-payments |  <p>Likelihood</p> <p>Impact</p> | Mandatory Cyber Security awareness training held for all staff IT Systems and processes administered to PSN (Public Services Network) standards and protocols; ITILv3 Methodology adoption for ITSM; Comprehensive and regular reviews of ISP (Information Security Policies) and IT Network |  <p>Likelihood</p> <p>Impact</p> |

| Code | Risk Description | Risk Owner | What might go wrong? | What will happen? | Original (Risk Rating (inherent)) | Current Controls | Residual Risk |
|-------|---|-----------------------|---|--|-----------------------------------|--|---------------|
| | | | | | | Access Policies; Operational daily checks and proactive monitoring of Firewalls and pattern updates; Staff qualified in Cyber Scheme Professional standards and within GOV UK C ESG guidelines; Regular system health checks and vulnerability scans; System and software maintained to supported levels. Email security managed by accredited 3rd party Insurance for potential losses for a cyber-attack | |
| CR010 | Responding to Climate Change Emergency and reducing the council and district carbon emissions | Strategic Director DA | Failure to take steps to achieve target for the council to be carbon neutral by 2024 Resistance to | Failure to meet agreed targets Adverse publicity Reputational damage Increased risk of flooding | | Winchester Carbon Neutrality Action Plan approved Cross council officer group established | |

| Code | Risk Description | Risk Owner | What might go wrong? | What will happen? | Original (Risk Rating (inherent)) | Current Controls | Residual Risk |
|-------|---|-----------------------|---|---|-----------------------------------|---|---------------------------------|
| | | | behavioural change to reduce energy use Not take advantage of new technologies to reduce energy usage Funding not made available Insufficient project capacity in house | Reduction in house prices Carbon emissions increase Protests by lobby groups House price volatility e.g. increases in value for houses in areas less likely to flood | | Partner group established Climate Emergency declared Asset Management Strategy Annual report for first 2 years £15mil HRA | |
| CR011 | Lack of preparedness and incapability to respond to events caused by climate change | Strategic Director DA | Failure to prepare for an adverse weather event, for example long period of rain, heavy snow or heatwave Failure to manage sluice gates and maintain rivers Failure to respond to an adverse weather event, e.g. making safe city footpaths and car parks after heavy snow fall | Flooding causing damage to property and assets Loss of income to the council e.g. closed car parks due to snow Adverse publicity Damage to reputation | <p>Likelihood</p> <p>Impact</p> | Multiagency Emergency Response Plan in place, reviewed and updated annually Annual Emergency Planning exercise to test the Plan Completion of flood alleviation schemes Temporary flood defence barrier purchased and available to be used where there is a need | <p>Likelihood</p> <p>Impact</p> |

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Forward Plan of Key Decisions

April 2022

The Forward Plan is produced by the Council under the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012. The purpose of the Plan is to give advance notice of Key Decisions to be made by the Cabinet, Cabinet Members or officers on its behalf. This is to give both Members of the Council and the public the opportunity of making their views known at the earliest possible stage.

This is the Forward Plan prepared for the period **1 - 30 April 2022** and will normally be replaced at the end of each calendar month.

The Plan shows the Key Decisions likely to be taken within the above period. Key Decisions are those which are financially significant or which have a significant impact. This has been decided, by the Council, to be decisions which involve income or expenditure over £250,000 or which will have a significant effect on people or organisations in two or more wards.

The majority of decisions are taken by Cabinet, together with the individual Cabinet Members, where appropriate. The membership of Cabinet and its meeting dates can be found [via this link](#). Other decisions may be taken by Cabinet Members or Officers in accordance with the Officers Scheme of Delegation, as agreed by the Council (a list of Cabinet Members used in the Plan is set out overleaf).

The Plan has been set out in the following sections:

Section A – Cabinet

Section B - Individual Cabinet Members

Section C - Officer Decisions

Anyone who wishes to make representations about any item included in the Plan should write to the officer listed in Column 5 of the Plan, at the above address. Copies of documents listed in the Plan for submission to a decision taker are available for inspection on the Council's website or by writing to the above address. Where the document is a committee report, it will usually be available five days before the meeting. Other documents relevant to the decision may also be submitted to the decision maker and are available on Council's website or via email democracy@winchester.gov.uk or by writing to the above



Regulation 5 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 refers to the requirement to provide notice of an intention to hold a meeting in private, inclusive of a statement of reasons. If you have any representations as to why the meeting should be held in private, then please contact the Council via democracy@winchester.gov.uk or by writing to the above address. **Please follow this link to definition of the paragraphs** (Access to Information Procedure Rules, Part 4, page 32, para 10.4) detailing why a matter may be classed as exempt from publication under the Local Government Acts, and not available to the public.

If you have any queries regarding the operation or content of the Forward Plan please contact David Blakemore (Democratic Services Manager) on 01962 848 217.

Cllr Lucille Thompson

Leader of the Council

28 February 2022

| Cabinet Members: | Title |
|-----------------------------|--|
| • Cllr Lucille Thompson | Leader & Cabinet Member for Partnerships |
| • Cllr Neil Cutler | Deputy Leader & Cabinet Member for Finance & Service Quality |
| • Cllr Angela Clear | Communities & Wellbeing |
| • Cllr Russell Gordon-Smith | Built Environment |
| • Cllr Kelsie Learney | Housing & Asset Management |
| • Cllr Hannah Williams | Climate Emergency |
| • Cllr Martin Tod | Economic Recovery |

| | Item | Cabinet Member | Key Decision | Wards Affected | Lead Officer | Documents submitted to decision taker | Decision taker (Cabinet, Cabinet Member or Officer) | Date/period decision to be taken | Committee Date (if applicable) | Open/private meeting or document? If private meeting, include relevant exempt paragraph number |
|--|------|----------------|--------------|----------------|--------------|---------------------------------------|---|----------------------------------|--------------------------------|--|
|--|------|----------------|--------------|----------------|--------------|---------------------------------------|---|----------------------------------|--------------------------------|--|

Section A
Decisions made by Cabinet

| | | | | | | | | | | |
|---|------------------|---|------------------------|-----------|-----------|----------------|---------|--------|--------------------------|---------------|
| 1 | Land transaction | Cabinet Member for Housing and Asset Management | Expenditure > £250,000 | All Wards | Geoff Coe | Cabinet report | Cabinet | Apr-22 | Apr-22 (TBA if required) | Part exempt 3 |
|---|------------------|---|------------------------|-----------|-----------|----------------|---------|--------|--------------------------|---------------|

Section B
Decisions made by individual Cabinet Members

| | | | | | | | | | | |
|---|------|--|--|--|--|--|--|--|--|--|
| 2 | None | | | | | | | | | |
|---|------|--|--|--|--|--|--|--|--|--|

Section C
Decisions made by Officers

| | | | | | | | | | | |
|---|---|--|------------------------|-----------|-------------------------------------|---------------------------|-------------------------------------|--------|--------|------|
| 3 | Treasury Management - decisions in accordance with the Council's approved strategy and policy | Deputy Leader and Cabinet Member for Finance and Service Quality | Expenditure > £250,000 | All Wards | Designated HCC Finance staff, daily | Designated working papers | Designated HCC Finance staff, daily | Apr-22 | Apr-22 | Open |
|---|---|--|------------------------|-----------|-------------------------------------|---------------------------|-------------------------------------|--------|--------|------|

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

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