

CABINET

RECORD OF DECISIONS of the meeting of the Cabinet held on Tuesday, 26 February 2019 at 9.00 am at the Guildhall, Portsmouth

Present

Councillor Gerald Vernon-Jackson CBE (in the Chair)

Councillors Steve Pitt
Dave Ashmore
Ben Dowling
Suzy Horton
Darren Sanders
Jeanette Smith
Lynne Stagg
Matthew Winnington
Rob Wood

14. Apologies for Absence (AI 1)

All Cabinet Members were present but Councillors Dave Ashmore and Jeanette Smith apologised for their late arrival.

15. Declarations of Interests (AI 2)

Councillor Lynne Stagg declared that she lived in one of the proposed residents' parking zones so would leave the meeting and not take part in discussion of this item.

16. Record of Previous Decision Meeting - 5 February 2019 (AI 3)

The record of decisions of the meeting of Cabinet held on 5 February 2019 was approved as a correct record and signed by the Leader.

17. Leamington House and Horatia House Next Steps (AI 4)

Cabinet Members noted the written deputation of support for demolition and replacement homes with additional social housing on the sties, which had been submitted by Maria Cole of Somerstown's local community board People's Action Team for Community Harmony (PATCH).

James Hill, Director of Housing, Neighbourhood and Building Services, presented his report Confidential briefings had been held with stakeholders prior to the publication of the report on 18th February and officers had communicated with the local community. He reported that following this communication exercise no resident had called the helpline with concerns. The 'demolition' would be deconstruction method (without explosives). Since the start of the removal of cladding in June 2017 the safety of residents had remained the overriding priority.

James Hill updated the report paragraph 3.14 regarding the current rehousing numbers: as at 22 February 39 households remain in the two blocks, of which 25 have accepted an offer, 5 have been offered a property and 9 were awaiting an offer. He therefore anticipated that the blocks would be empty by late Spring/early Summer 2019. He thanked the housing team, Somerstown hub, Communication and Building Services and Hampshire Fire & Rescue Service for their involvement and also the residents living in the two blocks and the wider local community for their understanding and co-operation.

Deputations are not minuted in full as this meeting was webcast and can be viewed here:

<https://livestream.com/accounts/14063785/Full-Cabinet-26Feb2019>

Councillor Luke Stubbs, Deputy Leader of the Opposition, raised questions regarding the financing, subsidy arrangement and posed that the level of government grant may change the viability of the scheme, and possible use of the Northern Quarter scheme to seek offsite contributions to use here.

Councillor Donna Jones, Leader of the Opposition, thanked officers for the advance briefing and welcomed the responsible approach being taken. She queried some of the figures for remediation works and the assessment for selling the blocks, with the reliance on Right to Buy receipts for the redevelopment as there could not just be borrowing to finance it.

The Cabinet Members then asked questions and it was confirmed by James Hill that the level of risk was as detailed in the assessment reports that had been on the website since July 2018. The risk of an un piped gas explosion had been mitigated (there was no gas supply to the two blocks) but the discovered structural defect in concrete strength could not be fully treated. If the event occurred, the building would not respond as it should, with the potential for a partial collapse. Strengthening of the properties would be at a very high cost. With regard to the issue of liability Michael Lawther, City Solicitor, reported that decanting of tenants had been seen as the safest option with PCC's insurers.

Councillor Gerald Vernon-Jackson supported the action taken to remove residents and reprovide over 272 social housing units. It was confirmed that 5 gas canisters had been found in the blocks when an amnesty had been offered. The term "partial collapse" was explained and it was confirmed that a refurbishment of the existing blocks (which were 50 years old) would not be able to comply with current Building Regulations. It was also confirmed that refurbishment works would not be accounted for through the Council Tax as it was part of the Housing Revenue Account (HRA). The Finance Manager reported that with the cost of £5.6m to demolish it would be challenging to build social housing only but a government grant could be awarded to facilitate this.

Councillor Darren Sanders, Cabinet Member for Housing, stressed that whilst challenging, the safety of residents had to be put first, due to the concern of a

future partial collapse. This was the second time that residents had to move out in 20 years and was the opportunity to provide better homes.

Councillor Steve Pitt, Deputy Leader, spoke on the long-term high refurbishment costs, and favoured the provision of affordable homes. Councillor Matthew Winnington agreed that at least 272 social housing units should be reprovided and for there to be mixed communities, as supported by PATCH.

DECISIONS The Cabinet:

- (1) Noted the results of the feasibility work to strengthen, clad and install sprinklers into Leamington House and Horatia House;**
- (2) Agreed that it is financially unviable to undertake the works to strengthen, clad and install sprinklers into Leamington House and Horatia House, and as a result;**
- (3) Agreed that on completion of the permanent rehousing of all households from Leamington House and Horatia House, the two blocks will be removed from charge, decommissioned and secured;**
- (4) Gave delegated approval to the Director of Housing, Neighbourhood and Building Services authority to incur costs to carry out decommissioning works of Leamington House and Horatia House and secure both blocks;**
- (5) Agreed that there is an opportunity for the sites to be redeveloped to create affordable/social housing and regeneration in this area of the City and requests the Regeneration Directorate working with the Housing Directorate to provide a report to Cabinet with an options appraisal for the demolition of Leamington House and Horatia House and redevelopment of the sites in consultation with the local and wider Somerstown community and stakeholders;**
- (6) Noted the loss of social housing units to the Housing Revenue Account and requests that the options appraisal for the development of the Leamington House and Horatia House sites includes the re-provision of a minimum of 272 social housing units to be held in the HRA.**

18. Residents' Parking Programme of Consultation Update (AI 5)

Councillor Lynne Stagg withdrew in accordance with her earlier declaration of interest for this item.

The Cabinet Members were in support of the report by the Director of Regeneration.

DECISIONS - The Cabinet agreed that

- (1) the progress made between August 2018 - February 2019 on the Residents' Parking Programme be noted;**
- (2) the next areas for informal survey were reconfirmed, as per the approved Programme;**
- (3) the anticipated Residents Parking Zone (RPZ) Programme timescales were noted (as set out in Appendix A)**

19. Board Composition of Portsmouth City Council companies (AI 6)

At the start of the meeting the Leader had announced that this item (which had not been published) would not be coming forward at this stage as it needed more work for it to be brought in time to allow public scrutiny. He favoured a cross-party approach which was welcomed by Councillor Jones.

20. Exclusion of Press and Public (AI 7)

Mr Jerry Brown made a deputation to challenge the proposed exclusion and exemptions for the report appendices on the next three items on the agenda. He had been in the position of having to register to make a deputation for a report that had not been made publicly available and asked for the rules on these deadlines to be changed.

Michael Lawther, as City Solicitor, advised the Cabinet to pass the resolution to maintain confidentiality in the appendix documents but members could discuss the main reports in open session and not go into closed session as long as reference was not made to confidential material.

Councillor Vernon-Jackson, Leader, asked that the officers explain further why the appendices needed to be exempt for each item, and whilst the exemptions were upheld, discussion took place in open session.

DECISION:

That, under the provisions of Section 100A of the Local Government Act, 1972 as amended by the Local Government (Access to Information) Act, 1985, the press and public be excluded for the consideration of the following items on the grounds that the report(s) contain information defined as exempt in Part 1 of Schedule 12A to the Local Government Act, 1972, under exemption paragraph numbers 3 & 5:

21. Ravelin Group of Companies (appendices B&C)

22. City Centre Regeneration (Heads of terms) (appendices B&C)

23. MMD Review Update (all appendices)

21. Ravelin Group of Companies (AI 8)

With regard to the exemption of appendices B (Counsel's opinion) and C (legal advice from Bevan Brittan on Board Composition) Tom Southall, Assistant Director Property, advised that there was legally privileged information that it was not in PCC's best interest to make public, so the exemptions for these appendices were upheld. Tom Southall made clear that he is a director in one of the named companies and was representing Tristan Samuels, Director of Regeneration in presenting this report. Wayne Layton, Finance Manager, outlined the financial arrangements as set out in Appendix A of the report.

Councillor Donna Jones made a deputation, welcoming the report which had followed on from decisions taken in 2016 and supported the use of shareholder dividends and the clever use of council assets.

Councillor Judith Smyth made a deputation regarding the experience of councils elsewhere in setting up these companies for the provision of mixed housing developments and she advocated the maximising of affordable housing on the site, and welcomed the report.

Councillor Vernon-Jackson, Leader, also wished for the maximum affordable housing to be provided through this arrangement, but disagreed with some of the legal advice. Councillor Sanders, Cabinet Member for Housing, also wanted housing to be affordable here and hoped that the directorships issue could be dealt with swiftly through the group leaders. Councillor Wood also welcomed the report and the benefits of the working arrangements.

DECISIONS - The Cabinet APPROVED:

- (1) That the business case and purpose for Hold Co be approved, including delegating authority to the Director Regeneration and City Solicitor in consultation with the s.151 officer to create a new subsidiary company to support the delivery of HRA projects with development management and project management services.**
- (2) To note that the need for the creation of a fit-for-purpose Board of Directors for each of the incorporated Ravelin companies based around an understanding of the skillsets required to support the company in both a commercial and local authority environment.**
- (3) That new directors are appointed to Hold Co and Prop Co to ensure the companies can remain quorate and able to trade.**

And RECOMMENDED TO COUNCIL approval of the following recommendations:-

- (4) That authority is delegated to the Director of Finance and Section 151 Officer in consultation with the Leader of the Council, upon agreement of the business justification case's for each of the proposed development sites, to:-**
 - (i) make changes to the budgetary framework as necessary**
 - (ii) To borrow as required for Ravelin Group development purposes, subject to a robust financial appraisal approved by the Director of Finance & S151 Officer that demonstrates the delivery of the best return to Portsmouth City Council and has proper regard to the following:**
 - The relevant capital and revenue costs and income resulting from the investment over the whole life of the development.**

- **The extent to which the investment is expected to deliver a secure ongoing income stream.**
- **The level of expected return on the investment.**
- **The payback period of the capital investment.**
- **The tax status and transactional tax events associated with any land transfers or activity of the companies.**

22. City Centre Regeneration (Heads of Terms) (AI 9)

Councillor Donna Jones had earlier in the meeting given her support to officers' progress, having met with Delancey and Tristan Samuels on the best use of the land going forward on this project.

Natascha McIntyre Hall, Assistant Director Strategic Development, explained the reasons for exemptions of appendices B (Pinsent Masons legal advice) and C (Agreed Heads of Terms) was that these contained commercially sensitive information, and the exemption for these was upheld. She went on to update the changes since the previously deferred report at Cabinet on 5 February; at paragraph 3.6 there was the aspiration to exceed the minimum planning requirements on affordable housing provision, Section 5 outlined the consultation programme with public involvement in developing the design. Whilst the Heads of Terms focused on the Tricorn area, officers were looking at the wider City Centre and beneficial impact on Commercial Road.

Councillor Vernon-Jackson, Leader, acknowledged the written deputation from Delancey which had been read by the Cabinet Members, and thanked them for their useful presentation to councillors the previous day, which he hoped could be repeated to a wider audience.

Councillor Judith Smyth made a deputation and was pleased that the previous suggestions had been taken on board, especially the aspiration to exceed affordable housing targets and to engage with the public.

Councillor Dowling, as Cabinet Member for PRED, welcomed this positive step for the City Centre.

DECISIONS - The Cabinet:

- (1) Noted the work to date on the various workstreams that are being aligned to bring about the successful culturally-led regeneration of Portsmouth City Centre.**
- (2) Agreed the Heads of Terms for the proposed joint venture LLP between Portsmouth City Council and DV4 Limited.**
- (3) Delegated authority to the Director of Finance and Information Services, the Head of Legal and the Director of Regeneration to**

negotiate and enter into the joint venture LLP in line with the agreed Heads of Terms.

(4) Delegated authority to the Director of Regeneration the management of spend on project related works against the capital budgets for the City Centre Regeneration. Spend will include negotiations and agreement of contracts, to consult on design options and develop a feasibility study in conjunction with residents and stakeholders and to ensure that the joint venture is fundable and delivers economic and commercial benefits for the Council as well as the wider regeneration benefits for the city as a whole.

(5) Delegated authority to the Director of Regeneration to work with the developers, the community and other stakeholders to co-design and implement a worthwhile temporary use strategy for the City Centre, with a particular focus on the Tricorn site.

(6) Delegated authority to the Director of Regeneration to create a consultation space within the City Centre to encourage ongoing open and transparent communication with all members of the community.

(7) Noted that:

(i) The S.151 Officer, in consultation with the Leader, has delegated authority to borrow as necessary for the Joint Venture limited liability partnership which is established to deliver the City Centre re-development as approved in the report to the Council consider on 12th February 2019.

(ii) Prior to any borrowing described above, a full business case and financial appraisal is prepared that can satisfactorily demonstrate with good certainty that cost savings / additional income or value uplift of the development that will accrue directly to the Council will at least cover the cost of that borrowing on a sustained basis over the lifetime of the borrowing undertaken.

23. MMD Update Review (AI 10)

Councillor Donna Jones had earlier indicated her support for this and that she is a director of MMD. Councillor Ben Dowling declared that he is a PCC appointed director (so was able to participate in the discussion) as are Chris Ward and Mike Sellers.

The appendices to this report were passed as exempt with Mike Sellers, Port Director, explaining that much of the information was commercially sensitive and useful to competitors to the detriment of MMD and PCC, and the exemption was therefore upheld. The Leader asked that more information on the reasons for exemptions were provided by officers in future.

Councillor Vernon-Jackson, Leader, requested that a report on the finances of MMD should be brought to the attention of the Council on an annual basis,

whereas currently reports were brought to the Planning, Regeneration and Economic Development (PRED) portfolio.

Mr Jerry Brown made a deputation regarding the limited nature of reporting on MMD and advocating quarterly reports.

Chris Ward, Director of Finance and Section 151 Officer, presented the joint report which set out how MMD had been loss making in recent years but had returned a net benefit to PCC in the last 2 years.

Councillor Smyth commented that she would appreciate an annual report to be more transparent on investments and risks. Chris Ward responded to her question on parent company support to report that by 2021/22 MMD should be in a surplus position.

Mike Sellers, Port Director, reported on the detailed assessments that had taken place by consultants and the shift away from relying solely on the fruit market to ensure long-term sustainability. The joint report recommended Option 2 of the 5 options for the site to retain MMD with £15m investment, giving the best return of £70m over 20 years. The accompanying recommendations gave protection to PCC's investment with period reviews on the viability of MMD.

Councillor Ben Dowling, as Cabinet Member for PRED, commented on the comprehensive review which had been cross-portfolio, through the Port Advisory Board.

The Leader requested an additional recommendation for an annual report to Council, which the City Solicitor advised would only be for information purposes (this being an Executive function).

DECISIONS:

- 1. The Cabinet adopted Option 2 as their preferred option.**
- 2. The Cabinet agreed that a loan facility of £15m be provided to MMD (subject to decisions 3, 4 and 5 below) for the necessary Capital Investment required to deliver a return of £19.3m over the 5 year period 2019/20 to 2023/24, which was approved in principle by City Council on 12 February 2019.**
- 3. The Council loan is provided at a rate consistent with State Aid rules.**
- 4. Any draw down on the loan facility by MMD is subject to the following:**
 - a) The 20 Year Business Plan demonstrates the continuing viability of MMD and that the continued operation of MMD continues to deliver the best financial return compared with all other viable alternatives.**
 - b) The Capital Investment is necessary either for the sustainability of existing income streams or for the generation of additional income.**

c) The proposed Capital Investment itself represents the most favourable return when assessed against the balance of:

i) The financial return on a Net Present Value basis and over the whole life of the asset created versus other potential options for the same outcome.

ii) The relative risk of each alternative option.

5. Continued parent company support and the availability of the loan facility is subject to the annual review and approval of a satisfactory 3 Year Business Plan and 20 Year Future Forecast which must demonstrate to the shareholders satisfaction that:

i) The assumptions that underpin the 3 Year Business Plan are robust with a more than reasonable chance of being achievable.

ii) That the 3 Year Business Plan is prepared to illustrate the financial effect of reasonable optimistic and reasonable pessimistic scenarios in order that the Shareholder is aware of the reasonable range of risk associated with the "Base Case" Business Plan.

iii) Recognising the exposure of the company to cyclical trade factors and adverse weather, that the overall 3 to 5 Year financial results of the Company provide an overall net return to the Shareholder over the period taking into account all returns received by the Shareholder through rents, dues and all other profit elements of services provided by the Shareholder (including the Portsmouth International Port).

6. The Council keeps under review the returns that would reasonably be expected to be achieved from alternative uses of the site, undertaking a formal review at the earlier of every 3 years or failure to achieve the financial performance set out in resolution 5 above.

7. That there be an annual information report to Council setting out the financial position of MMD.

The meeting concluded at 10.45 am.

.....
Councillor Gerald Vernon-Jackson CBE
Leader of the Council