

CABINET

RECORD OF DECISIONS of the meeting of the Cabinet held on Tuesday, 22 November 2022 at 12 pm at the Guildhall, Portsmouth

Present

Councillor Suzy Horton (in the Chair)
Chris Attwell
Kimberly Barrett
Jason Fazackarley
Lee Hunt
Steve Pitt
Darren Sanders
Lynne Stagg
Matthew Winnington

129. Apologies for Absence (AI 1)

Apologies for absence were received from Councillor Vernon-Jackson. Councillor Fazackarley gave apologies as he had to leave at 1.50 pm.

130. Declarations of Interests (AI 2)

With regard to agenda item 11 (Additional Licensing of Houses in Multiple Occupation) in the interests of transparency Councillor Sanders said he lived in a House of Multiple Occupation but as it was already licensed it was not covered by the proposed additional licensing scheme. Councillors Barrett, Fazackarley and Winnington said they lived in rented accommodation. Councillor Pitt said his partner owned rental properties.

131. UK Shared Prosperity Fund (AI 3)

Jane Lamer, Head of Economic Development and Skills, introduced the report.

Councillor Pitt, Cabinet Member for Culture, Leisure & Economic Development, drew attention to the fact that the UK Shared Prosperity Fund was meant to replace EU funding. It was welcome, despite the fairly small amount, but it was unusual that the amount allocated would increase each year as it was usually the other way round. This year's allocation had to be spent within this financial year even though approval to spend had not been confirmed yet, which was frustrating and an example of central government chaos. Regardless of stance on Brexit, a watching brief was needed so that the funding was not used for other purposes.

The Cabinet noted the report.

132. Crowdfunder (AI 4)

Jane Lamer, Head of Economic Development and Skills, introduced the report.

Councillor Pitt thanked Jane Lamer and Kim Pellett (Deputy Economic Growth Manager) for supporting businesses through Covid with significant help such as the Business Helpline which was still used and appreciated today.

Crowdfunder was part of the help provided. Particular thanks were due to Mike Davis-Marks, Sue Johnston and the Crowdfunder team. Businesses have attributed their continued existence to Crowdfunder when no other funds were available. Freelance artists had no government support so Crowdfunder gave 20 artists £500 each. The We Believe art trail using redundant noticeboards led to the establishment of the We Create market. The funding was not very much but it should last for 12 months. It had shown its value to business, for example, Shaping Portsmouth were delighted with it. It was an example of the council responding to community and business need.

Members said that when funding was cut the council had to find initiatives for services it used to provide, and mentioned two examples of help provided by Crowdfunder and match funded by the council: new CCTV at the Southsea Model Village and support for the Golden Gloves boxing club at the Stamshaw and Tipner Community Centre.

DECISIONS

The Cabinet agreed that

- 1. The Council supports an extension of the contract with Crowdfunder UK at a cost of £28,200 for 1 year (10 months of delivery) and looks to seek a self-service model for any further delivery (removing Crowdfunder support) if this finds approval to reduce costs in subsequent years.**
- 2. The Council supports a further top-up of £40,000 to the Small Business Fund to enable further business creation and growth, which will support a minimum of 8 match funded projects.**
- 3. Recommendations 2 (i) and 2 (ii) are funded by the Council's 2022/23 share of the UK Shared Prosperity Fund.**

133. Exclusion of Press and Public (AI 5)

The confidentiality of Appendix B was upheld.

134. Potential disposal of Middle Street Units (AI 6)

Councillor Cal Corkery made a deputation. Deputations are not minuted but can be viewed on the website at

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Anne Cains, Head of Acquisition and Disposal, introduced the report, noting that paragraph 2.2 should state "PVD1, or best value offer." She explained that restrictive covenants would be unenforceable and could be overturned; requests for affordable housing would be considered when a planning application was received.

In response to Councillor Corkery's suggestion that the decision be deferred so that legal advice was clarified and members had full information on the likelihood of a claim for loss being successful, the City Solicitor advised that it was within members' remit to share legal advice already given and that external advice could be obtained; however, his advice would remain the same. Members could take external legal advice if they wished but it might

undermine the commerciality of the site and in his opinion would probably not add anything. Likewise, covenants usually undermined commerciality.

Members asked if the decision was time sensitive as they did not want to lose the sale. Councillor Corkery's proposal could deter developers and risk derailing the deal, thereby the council receiving less money and resulting in less housing. The Kingston Prison site initially had no plans for affordable housing but now two-thirds of it was affordable.

Members discussed whether a covenant specifying a certain amount of affordable housing on the site would be enforceable. A future developer may want to give a covenant some weight but the council would not be able to enforce it and it may not change the eventual outcome.

Officers advised that Planning had recommended that planning permission be approved for 163 residential units on the site but the application was withdrawn before going to a formal hearing. The technicality mentioned in paragraph 3.6 was that as the freeholder the council could not enter into a S106 agreement with itself. The council would sell the site then enter into a S106 agreement.

The advice was that a covenant could be imposed but in reality if it was restrictive on the future owner so that they could not supply affordable housing through a viability assessment the council would be legally unable to impose a covenant nor claim compensation for it not being imposed. The council needed to dispose of the land to engage with the process to obtain the maximum amount of affordable housing.

DECISIONS

The Cabinet delegated to the Director of Regeneration and the City Solicitor authorisation to negotiate and finalise terms for the disposal of the site known as 32,34,42,56,58 & 60 Middle Street, Portsmouth to PVD1 Developments, or the best value offer, subject to the long leases currently in place in accordance with the schedule of interests as attached in Appendix B.

135. Ocean Recovery Declaration - Update of Progress (AI 7)

Kristina Downey, Principal Strategy Adviser - Carbon and Climate Change, introduced the report.

Councillor Barrett, Cabinet Member for Climate Change & Environment, said ocean recovery work had been cross-portfolio from the start to ensure it covered a wide range of areas in the council. The actions taken have involved other organisations and strengthened relationships with them; many actions would link into the new Local Plan. Education played an important role and the council was looking at developing an offering with World Ocean Day on 8 June 2023. Councillor Barrett thanked all those involved, Ms Downey for co-ordinating the information and the Traffic, Environment & Community Safety for their review's recommendations.

The Cabinet noted the report.

136. Review of CAZ mitigation measures (AI 8)

Bethan Mose, Transport Delivery Manager, introduced the report.

Councillor Stagg, Cabinet Member for Traffic & Transportation, commended the report and the team's brilliant work which JAQU (Joint Air Quality Unit) had noted as exceptional. Portsmouth had been asked to work with two other councils to help implement their Clean Air Zones. One concern was that as larger wheelchair accessible vehicles (WAV) were expensive to replace taxi drivers were spending Clean Air Fund grants on smaller ones. The council had asked JAQU if some of the funding could be spent on larger WAVs as otherwise lack of such vehicles restricted people who used larger wheelchairs from going out.

DECISIONS

The Cabinet approved

- 1. Delegated authority to the Director of Regeneration to withdraw unspent Clean Air Fund (CAF) grants with a view to redistributing unspent funds, and ultimately close the CAF.**
- 2. A six-week period for remaining CAF applicants to provide clear proof of intent to upgrade their vehicles.**
- 3. That non-compliant vehicles purchased after 5th April 2023 not be granted an exemption from the Portsmouth Clean Air Zone - specifically with regards to:
i Specialist Heavy Vehicles, and
ii The Stop-Gap Exemption.**

137. Annual Adoption Agency Activity report April 2021 - March 2022 (AI 9)

Sarah Daly, Director of Children's Services and Education, introduced the report.

Councillor Winnington, Cabinet Member for Health, Wellbeing & Social Care, said Adopt South was a positive initiative as it was much better to work with neighbouring authorities than compete with them. It was a preventative investment in future adults and would lead to less impact on services. He thanked all involved, noting that a smooth transition from fostering to adoptive families was very important.

Members noted how fostering could change young people's lives for the better, especially when they had been living in turmoil, and appealed for more people to become foster carers.

The Chair agreed that working with Adopt South was positive and commended the skill of those who work in fostering and adoption. The link between the two services is crucial but they should not be conflated. People should never lose sight that fostering and adoption dealt with people's lives.

The Cabinet noted the report.

138. Social Value Progress report (AI 10)

Natasha Edmunds, Director of Corporate Strategy, introduced the report.

Councillor Attwell, Cabinet Member for Communities & Central Services, said Portsmouth's social value model, which had recently been shortlisted for a national award in public sector leadership, put recipients at its heart and the next phase was exciting. The conference in February 2023 would develop relationships with partners and apply the social value lens to issues such as the cost of living crisis and modern slavery. A new website would make the social value policy more accessible.

Members noted that prior to March 2021 only value for money was taken into account under procurement rules. Now all contracts would consider social value which was very positive. Community engagement was critical to embed social value. Social value affected all portfolios and interacted with issues such as the cost of living crisis. It was not a separate initiative but was integrated into everyday living.

The Cabinet noted the report.

139. Additional Licensing for Houses of Multiple Occupation (HMO) (AI 11)
Clare Hardwick, Head of Private Sector Housing, introduced the report.

Councillor Corkery made a deputation in favour of the proposal.

A deputation from the Portsmouth & District Private Landlords' Association against the proposal was read out.

In response to questions from members, the City Solicitor advised that the decision to adopt additional licensing was within members' remit. The council may have powers to deal with unsatisfactory rented properties in terms of general competency but usually if a property was unfit for human habitation it was a matter for resolution between the landlord and tenant, taking into account the implied duties in the contract. There was not a statutory duty to intervene as with adult and children's services. Furthermore, there was a distinction between social housing and private sector housing; landlords in the latter have always been sued relevant to breaches of covenant. Housing officers advised that under the Housing Act the council could enter and inspect properties and take action, which was generally a reactive approach. Licensing was a more pro-active approach. Housing met the Private Rental Sector governance board quarterly to discuss this type of matter.

Members said the council had done a considerable amount of work to drive up standards of HMOs, as seen in applications to the Planning Committee. Improving standards was good as it consequently improved rental income as people would want to live in the properties.

Councillor Sanders, Cabinet Member for Housing & Preventing Homelessness, had wanted to keep additional licensing in 2018 as it worked but was not allowed to for legal reasons. HMOs were three times more likely to have hazards so there was evidence that additional licensing was needed. He thanked the Private Sector Housing Team for balancing conflicting demands. The aim was to reward good landlords and punish bad ones. If Option B was adopted (£750 over five years) it would amount to about £3 per

month per tenant. Landlords were unlikely to evict over a small sum; there were other reasons for leaving the rental business. Employing 40 more staff to enforce good homes was good. All renters should be able to live their life without false hopes. Members agreed that underlying the proposal was the conviction to safeguard and protect residents.

Officers said it was not exactly known when the Renters' Reform Bill would be released, perhaps by the end of the municipal year. The proposed landlord portal would complement additional licensing, not replace it; it was not a reason to halt additional licensing if members wanted to proceed.

The Chair thanked the Housing team and the deputees. She also thanked Housing for the other support mechanisms in place; it was not easy as there were many issues in the private rented sector. The discussion had shown the extremes in the quality of landlords and rented properties. Pragmatism was the sensible way to proceed. The importance of a home should never be under-estimated as there was a direct correlation between poverty and housing, for adults as well as children.

DECISIONS

- 1. The Cabinet had regard to all the responses to the statutory consultation and the evidence base previously presented to Cabinet on 22nd March 2022 together with the matters set out in this report and consider whether an additional licensing scheme for HMOs in the City should be introduced. The Cabinet decided to proceed with the scheme and approved:**
- 2. That the whole of the city is designated as subject to additional licensing under section 56(1)(a) of the Housing Act 2004 in relation to every class of HMO, but only including those section 257 HMOs that are mainly or wholly tenanted, including those with resident landlords.**
 - 2.1 That the designation set out in recommendation above, shall come into force on 1st September 2023 for a period of 5 years.**
 - 2.2 That delegated authority be given to the Director for Housing, Neighbourhoods and Building Services to sign the 'Designation of an Area for Additional Licensing of Houses in Multiple Occupation 2022' (as attached at Appendix 10) in accordance with the provisions set out in the Scheme of Delegations in the Council's Constitution.**
 - 2.3 The Licence Conditions contained in Appendix 7.**
 - 2.4. The Cabinet considered the options outlined in Appendix 5 for Licensing Model and Appendix 6 for Fee Structure and agreed to proceed with Option B: a tiered structure for Licence terms based on the compliance and competence of the licence holder. Cabinet approved the adoption of the proposed fees and charges structure (as attached at Appendix 6) outlined for Model B and instructed officers to bring a further report to Cabinet reviewing the fees before the commencement of the scheme, and annually throughout the scheme to ensure they remain reasonable and proportionate and address any issues relating to surpluses or**

deficits in accordance with case law and the EU Services Directive.

And therefore:

2.5 Approved the Policy for Landlord Accreditation contained in Appendix 8, and agrees to cease operating an in-house landlord accreditation scheme in favour of working with local and national landlord and agent accreditation schemes.

2.6 Instructed officers to present a further report to Cabinet before September 2023 with proposals to alter the Mandatory HMO Licensing model, fee structure and Licence conditions to create consistency between Mandatory and Additional Licensing of HMOs.

The Cabinet also approved:

3.The updated Private Sector Housing Enforcement Policy contained in Appendix 3, and agree its implementation from 1st December 2022.

4.The updated Private Sector Housing HMO Space and Amenity standards document contained in Appendix 4, and agree its implementation from 1st December 2022.

140. Treasury Management Mid-Year Review 2022/2023 (AI 12)

Chris Ward, Director of Finance and S151 Officer introduced the Treasury Management Mid-Year Review 2022/2023 report. He then explained the need for the Cabinet to note the urgent item Treasury Management Investments: Environmental, Social and Governance Considerations.

The report had been written to clarify the council's involvement with the Qatar National Bank (QNB) as a result of a recent article in The Guardian. The report gave the council an opportunity to reflect on the environmental, social and governance (ESG) requirements it followed as part of its treasury management. The council had never invested £60m in the QNB; it had £15m in three separate deposits in the QNB which would mature by February 2023. Under the ESG framework the council considered 35 key issues, including human capital, before making deposits in an institution and excluded any institutions rated as "laggard." The QNB was rated above average. The screening process with the QNB was not sophisticated enough to identify that it was 50% state owned. Ratings were undertaken on institutions, not where they were domiciled. The council could change its treasury management at any time and was seeking to implement additional screening on institutions where there was significant state control; if that state had a poor human rights record then involvement would end. The deposits in the QNB could not end prematurely for legal reasons but the council would not invest in any state institution with a poor human rights record.

In response to questions from members, officers explained there was a difference between investments and deposits, and a state and an institution. Screening focuses on an institution, not the state, so the institution may be satisfactory. The council's intention was still to invest in institutions which were not significantly influenced or controlled by the state. If the council did not invest in any countries with poor human rights records the result was not so much a decrease in earnings but increasing risk as there were only a finite

number of institutions the council could invest in, generally AAA rated ones. The council's primary responsibility was to safeguard public funds.

Members welcomed the explanation and the fair and balanced approach outlined in the report. There were plenty of other places to invest money, for example, the green economy.

DECISIONS

The Cabinet

- 1. Noted that the Council's Treasury Management activities have remained within the Treasury Management Policy 2022/23 in the period up to 30 September 2022.**
- 2. Noted that the actual Treasury Management indicators as at 30 September 2022 set out in Appendix A be noted.**

The Cabinet also noted the Urgent Information Item - Treasury Management Investments: Environmental. Social and Governance Considerations.

141. Revenue Budget Monitoring 2022/23 (Second Quarter) to end September 2022 (AI 13)

Chris Ward, Director of Finance and S151 Officer, introduced the report.

In response to questions from members, officers explained that the costs relating to the Border Control Posts (BCP) at the Port had two aspects: firstly, the government had provided about £18m of the £24m capital cost but the council had to fund the shortfall; secondly, the ongoing costs of mothballing them, which were about £200,000 annually.

Members suggested that the costs could fund services, for example, increasing the number of Community Wardens by about half. Even if the council raised additional revenue, this would still not fill gap in finances because of the costs of the BCPs, energy prices and the wage settlement.

DECISIONS

The Cabinet

- 1. Noted the General Fund Forecast Outturn for 2022/23 (as at 30th September 2022), consisting of £7,784,800 overspend (assuming the Employers 2022/23 Pay Offer of a flat increase to all Spinal Column Points of £1,925)**
- 2. Noted the continuing financial impact of the Covid-19 Pandemic totalling £2.88m.**
- 3. Noted the financial impact of the Covid-19 pandemic of £2.88m will be met from the provision held within the Council's Corporate Contingency which was set aside specifically for this purpose**
- 4. Noted the impact of the overspending capital schemes outlined in Section 7 and the consequent effect this will have on the availability of new capital resources to fund new capital schemes commencing in April 2023.**
- 5. Noted that in accordance with approved policy as described in Section 8, any actual non Covid-19 overspend at year end will in the**

first instance be deducted from any Portfolio Reserve balance and once depleted then be deducted from the 2023/24 Cash Limit.

- 6. Agreed that Directors, in consultation with the appropriate Cabinet Member, consider options that seek to minimise any forecast non Covid-19 overspending presently being reported and prepare strategies outlining how any consequent reduction to the 2023/24 Portfolio cash limit will be managed to avoid further overspending during 2023/24.**

The meeting concluded at 2:10 pm

Councillor Suzy Horton
Deputy Leader of the Council