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## SCRUTINY COMMITTEE

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**MINUTES** of the Meeting held in the Council Chamber, Swale House, East Street, Sittingbourne, Kent, ME10 3HT on Tuesday, 29 November 2016 from 7.00pm - 10.52pm.

**PRESENT:** Councillors Mike Baldock, Andy Booth (Chairman), Lloyd Bowen (Vice-Chairman), Derek Conway, Mike Dendor, Mark Ellen, Mick Galvin, Mike Henderson, Ken Ingleton, Nigel Kay, Samuel Koffie-Williams, Peter Marchington and Ben Stokes.

**OFFICERS PRESENT:** David Clifford, Abdool Kara, Jo Millard, Bob Pullen, Mark Radford and Nick Vickers.

**ALSO IN ATTENDANCE:** Councillors Sarah Aldridge, Cameron Beart, Monique Bonney, Tina Booth, Roger Clark, Richard Darby, Duncan Dewar-Whalley (Cabinet Member for Finance and Performance), Paul Fleming, Sue Gent, James Hall, Nicholas Hampshire, Harrison, Alan Horton (Cabinet Member for Safer Families and Communities), James Hunt, Gerry Lewin (Deputy Leader), Padmini Nissanga, Ken Pugh (Cabinet Member for Health and Well-Being), George Samuel, Roger Truelove, Ghlin Whelan, Mike Whiting and Ted Wilcox.

### 1031 FIRE EVACUATION PROCEDURE

The Chairman outlined the Fire Evacuation Procedure.

### 1032 DECLARATIONS OF INTEREST

No interests were declared.

### 1033 EXCLUSION OF THE PRESS AND PUBLIC

The Chairman clarified that the report to be considered under Agenda Item 5 was confidential and proposed the meeting to be held in closed session. The proposal was seconded. The Chairman reminded Members of the consequences of any breach of confidentiality.

**Resolved:**

***(1) That under Section 100A(4) of the Local Government Act 1972, as amended, the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraphs 3 and 5 of Part 1 of Schedule 12A of the Act.***

### 1034 CALL-IN CAPITAL FINANCING AND INVESTMENT

The Chairman welcomed the Cabinet Member for Finance and Performance, the Deputy Leader, the Chief Executive, the Director of Corporate Services, the Head of Finance, and visiting Members to the meeting.

The Chairman reminded Members of the Cabinet decision to borrow up to £28 million to fund specific works associated with the Sittingbourne Town Centre Regeneration. He added that the purpose of the meeting was the Call-in of the Cabinet decision, and referred to the three reasons given for the Call-in.

A Member questioned whether the decision had been made with adequate information available and whether there were better alternatives for investment? He suggested that there should be further detailed consideration of the potential financial risk, and that the Leisure and Retail Park aspects should be evaluated separately.

The Chairman referred to the three reasons for making the Call-in, and invited Members to ask questions on each of them.

### **Reason 1 - Inadequate consultation relating to the decision**

Members raised a number of questions and points:

- the public had not been consulted and may have other investment ideas;
- had adequate financial advice been given?;
- spoke of previous borrowing to finance schemes;
- the public should have been consulted on the principle as it was the biggest investment in many years;
- it was Members' responsibility to keep residents informed;
- the proposal was the 'ordinary business of the Council';
- the public may agree with regeneration, but disagree with the cost;
- the Council had been financially well managed historically, but reduction in grant and no income from Council Tax meant it now needed to borrow to generate income;
- highlighted the need to separate the loan from its proposed purpose; and
- questioned the support for the regeneration proposals in the consultation carried out in 2014, as referred to in the report.

In response, Members were advised by officers that, whilst not statutory, Members could choose to consult on proposals, and a copy of the consultation report from 2014 could be provided. Members were also referred to paragraph 3.9 of Agenda Item 8 of the Cabinet report which stated that *"The proposals are subject to ratification by the U&I Board, and to final due diligence by the Council with its advisers."*

The Cabinet Member for Finance and Performance advised that if investment was not made, the Council might not be able to provide services for residents and visitors to the Borough in the future. He highlighted that other Councils were investing in a similar way.

## **Reason 2 - Viable alternative not considered**

A Member asked whether consideration had been given to financing or investing in other projects? The Head of Finance referred to page 2 of the report, and explained that a scheme must be self-financing for the Council to consider investing in it. A discussion ensued and the following points were raised:

- what was the value of the asset?;
- had the Council considered 'forward purchase'?;
- what was the strategic impact of the purchase going ahead?;
- why was the Council in such a rush to buy or invest?;
- consideration should be given to investing in the existing empty units in the Borough;
- clarification of which other investment sites had been considered;
- the Council should invest in housing;
- there was not enough information in the original Cabinet report;
- had all sites with existing planning permission for retail been considered?;
- timing for borrowing money was crucial;
- were there any restrictions on what borrowed money could be spent on?;
- the Council should consider covenant strength as this would minimise risk;
- what was the impact if rental income was not received?;
- had other finance options been considered?;
- any asset owned could be sold in the future if necessary; and
- the importance of the investment for the financial future of Swale.

The Head of Finance thanked Members for their suggestions, and advised that Cabinet wanted to invest and gain revenue now, and a legal agreement would guarantee build costs. He explained that the money could be borrowed flexibly to fund capital projects, and there was a team of treasury advisers to assist, so that borrowing was made at the most cost-effective time.

The Cabinet Member for Finance and Performance said that the Council must take opportunities for investment as soon as possible or other organisations would take those opportunities, and as partners in the project, progress could be closely monitored. He added that other suggested projects would be considered, and he was confident that rental income would be received for repayment, but reserves could be used temporarily if necessary.

The Chief Executive advised that having looked at the numbers, it would be difficult to cover the borrowing costs if the Council invested in social housing and so it was not financially viable. He added that there was no lack of private housing being built in the Borough in any case the Council owned very little land to build on. The Chief Executive explained that it was the Council's intention to borrow more money over time in the event that there was a succession of future projects to generate additional income.

### **Reason 3 - Justification for the decision open to challenge on the basis of the evidence considered (insufficient risk information)**

A Member suggested that the information available to Cabinet Members to make a decision at the Cabinet meeting was insufficient. The same Member did not agree with the Risk Assessment in the Scrutiny Committee report.

Councillor Mike Henderson agreed that the Cabinet report was inadequate and lacked information on a number of issues including the business plan; the determination of the actual loan required; the risk assessment; alternative proposals; profit expected by developers; valuation of the purchase; and the contracting out of the project management. He proposed that the decision be referred back to Cabinet with the issues raised included, so that Cabinet could reconsider their decision. The proposal was seconded.

During the discussion that followed, Members raised issues that centred on the following themes:

- the financial sustainability of and demand for the multi-screen cinema;
- the importance of continued investment in the cinema into the future;
- the effect that the take-over of the development company has had;
- the suggestion of support from the Chartered Institute of Public Finance and Accountancy (CIPFA);
- the benefits of 'forward purchasing';
- clarification on the costs of the loan year-on-year, and when the interest rate for borrowing would be set;
- the suggestion of separating different assets to attach individual risk;
- the suggestion of employing a specialist company to assess the risk; and

- the areas of potential risk that needed further information and consideration.

Councillor Mike Baldock put forward another proposal:

*“This Committee feels insufficient evidence has been made available to Members to generate the confidence necessary for such a scheme, and request Cabinet to ensure that sufficient evidence is made available in the event of future borrowing.”*

This proposal was not seconded.

During the debate, Councillor Nigel Kay put forward another proposal which included insufficient detail in Business Plans, but this was neither debated nor seconded.

**Resolved:**

**(1) That the Scrutiny Committee recommends to Cabinet that the report to Cabinet was inadequate to make a proper decision for the following reasons:**

- (a) There is no business plan, nor profit loss account, nor a cash flow for the early years of the project;**
- (b) There is no determination of the anticipated actual loan required;**
- (c) There is no risk assessment in the Cabinet papers and the risk assessment on the Scrutiny report is inadequate;**
- (d) There is no explanation of alternatives that could be considered in the Cabinet report;**
- (e) There is no detailed information on profit expected to be made by the Developers;**
- (f) There is no valuation of the purchase being made, and**
- (g) There are no details of the contracting out of the project management**

**and should be referred back to Cabinet with all of the points included above so that an adequate decision can be made.**

## **1035 SUSPENSION OF STANDING ORDERS**

At 10pm and 10.30pm Members agreed to the suspension of Standing Orders in order that the Committee could complete its business.

Chairman

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All Minutes are draft until agreed at the next meeting of the Committee/Panel