



**Brighton & Hove
City Council**

**OVERVIEW & SCRUTINY
COMMISSION
SUPPLEMENTARY AGENDA ITEM(S)**

3.30PM, TUESDAY, 26 JANUARY 2010

COUNCIL CHAMBER, HOVE TOWN HALL

SUPPLEMENTARY AGENDA ITEM(S)

The following agenda item(s) have not been provided for on the agenda front sheet. The Chairman has agreed to accept these reports as a matter of urgency for the reasons set out in the reports.

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PART ONE

75A	CALL-IN REQUEST FOR HANGLETON BOTTOM	1 - 26
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Report of the Director of Strategy & Governance (copy attached).

PART TWO

77.	HANGLETON BOTTOM UPDATE CALL-IN - EXEMPT CATEGORY 3	27 - 36
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Report of the Director of Strategy & Governance (circulated to Members only).

78.	PART TWO ITEMS	
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To consider whether or not the above item and the decisions thereon should remain exempt from disclosure to the press and public.

OVERVIEW AND SCRUTINY COMMISSION

Agenda Item 75a

Brighton & Hove City Council

Subject: Hangleton Bottom Update Call-in
Date of Meeting: 26 January 2010
Report of: The Director of Strategy and Governance
Contact Officer: Name: Tom Hook Tel: 29-1110
E-mail: Tom.Hook@brighton-hove.gov.uk
Wards Affected: All

FOR GENERAL RELEASE

Note: The special circumstances for non-compliance with Council Procedure Rule 7, Access to Information Rule 5 and Section 100B (4) of the Local Government Act as amended (items not considered unless the agenda is open to inspection at least five days in advance of the meeting) was the information contained within the report was not available in time to meet dispatch deadlines.

1. PURPOSE OF REPORT:

- 1.1 To determine whether to ask the Cabinet Member for Central Services to reconsider his decision in relation to the Hangleton Bottom Update, which was taken at the Central Services Cabinet Member Meeting (CMM) on 18 January 2010.
- 1.2 The following information is contained in the appendices to this report:
 - a. **Appendix 1** contains the Call-In request;
 - b. **Appendix 2** contains the report from the Director of Finance and Resources which was agreed at the 18 January Central Services CMM (including a map of the site appended to the original report);
 - c. **Appendix 3** contains the official record of the Cabinet Member's Decision in relation to this report;
 - d. **Appendix 4** contains the minutes of the Central Services CMM;
 - e. **Appendix 5** contains further information on this issue supplied by the Director of Finance and Resources.

2. RECOMMENDATIONS:

- 2.1 (a) To note the decision taken by the Cabinet Member for Central Services on the 18 January 2010 in relation to the Hangleton Bottom Update;

- (b) To note the subsequent Call-In request;
- (c) To note the additional information supplied by the Director of Finance and Resources.

2.2 Having regard to the grounds for Call-In, to determine whether to refer the decision back to the Cabinet Member for reconsideration.

3. BACKGROUND INFORMATION

3.1 On January 18 the Cabinet Member for Central Services agreed a report on Hangleton Bottom. (This report is reprinted in **Appendix 2**).

3.2 Further information relating to this matter from the Director of Finance and Resources is contained in **Appendix 5**.

3.3 On January 19, Councillors Les Hamilton and Warren Morgan wrote to the Chief Executive, requesting that the Cabinet Decision be called in. (The Call-In request is reprinted as **Appendix 1** to this report.)

3.4 The Chief Executive accepted the Call-In request on 21 January and asked for the issue to be considered at the Overview and Scrutiny Commission within seven working days.

3.4 Call-In is the process by which Overview & Scrutiny Committees can recommend that a decision made (in connection with Executive functions) but not yet implemented be reconsidered by the body which originally took the decision.

3.5 Call-In should only be used in exceptional circumstances, for instance where there is evidence that an important decision was not taken in accordance with the Council's constitution.

3.6 An Overview & Scrutiny Committee examining a decision which has been Called-In does not have the option of substituting its own decision for that of the original decision. The Overview & Scrutiny Committee may only determine whether or not to refer the matter back to the original decision making body for reconsideration.

3.7 In determining whether to refer a decision back to its originating body for reconsideration, the Overview & Scrutiny Committee should have regard to the criteria for Scrutiny reviews, as set out in the Council's constitution (Part 6.4.2) namely,

- The importance of the matter raised and the extent to which it relates to the achievement of the Council's strategic priorities, the

implementation of its policies or other key issues affecting the well being of the City or its communities;

- Whether there is evidence that the decision-making rules in Article 11 of the constitution have been breached; that the agreed consultation processes have not been followed; or that a decision or action proposed or taken is not in accordance with a policy agreed by the Council;
- The potential benefits of a review especially in terms of possible improvements to future procedures and/or the quality of Council services;
- What other avenues may be available to deal with the issue and the extent to which the Councillor or body submitting the request has already tried to resolve the issue through these channels (e.g. a letter to the relevant Executive Member, the complaints procedure, enquiry to the Chief Executive or Chief Officer, Council question etc.);
- The proposed scrutiny approach (a brief synopsis) and resources required, resources available and the need to ensure that the Overview and Scrutiny process as a whole is not overloaded by requests.

3.8. In addition, the Committee should take into account:

- Any further information which may have become available since the decision was made
- The implications of any delay; and
- Whether reconsideration is likely to result in a different decision.

4. CONSULTATION

4.1 No formal consultation has been undertaken in regard to this report.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

5.1 The initial costs associated with the marketing exercise will be met from existing budgets and any potential costs or receipts associated with the future development of the site will be reported to Cabinet upon completion of the marketing exercise.

Finance Officer Consulted: Rob Allen

Date: 22/1/10

Legal Implications:

5.2 Call-in is a process by which overview and scrutiny ('O & S') committees can recommend that an executive decision made but not yet implemented be reconsidered by the decision-maker. Call-in does not provide for the O & S committee to substitute its own decision, but

merely to refer the matter back to the decision-maker. That person or body can only be asked to reconsider any particular decision once.

In deciding whether or not to refer the decision back, the relevant O & S committee (here the O & S Commission), shall have regard to the following criteria:

- (i) the importance of the decision called-in, and the extent to which it relates to the achievement of the council's strategic priorities, the implementation of its policies or other key issues affecting the well-being of the City or its communities
- (ii) whether there is evidence that the decision-making rules in Article 13 of the constitution have been breached; that the agreed consultation processes have not been followed; or that a decision made is not in accordance with a policy agreed by Full Council
- (iii) any further information that may have become available since the decision was made
- (iv) the implications of any delay in implementing the decision
- (v) whether reconsideration is likely to result in a different decision

If, having scrutinised the decision taken by the Cabinet Member for Central Services, OSC is still concerned about it, OSC may refer the decision back to the Cabinet Member for reconsideration, setting out in writing the nature of its concerns.

If the decision is referred back, the Cabinet Member shall reconsider whether to amend the decision or not before reaching a final decision and implementing it. This reconsideration shall take place either at the next programmed meeting of the Cabinet Member or at a special meeting called for the purpose.

Lawyer Consulted: Oliver Dixon

Date: 21 January 2010

Equalities Implications:

- 5.3 There are no direct equality implications to this report, although the 18 January CMM decision was made with regard to the equality implications contained within the original report of the Director of Finance and Resources.

Sustainability Implications:

- 5.4 There are no direct sustainability implications to this report, although the 18 January CMM decision was made with regard to the sustainability implications contained within the original report of the Director of Finance and Resources.

Crime & Disorder Implications:

- 5.5 There are no direct crime & disorder implications to this report, although the 18 January CMM decision was made with regard to the crime & disorder implications contained within the original report of the Director of Finance and Resources.

Risk and Opportunity Management Implications:

- 5.6 The Call-In procedure seeks to provide a system via which important decisions can be re-examined in a timely fashion, so as to ensure that the Council is not unnecessarily exposed to risk associated with taking decisions contrary to established procedure, whilst also minimising risk inherent in unduly delaying the decision making process.

Corporate / Citywide Implications:

- 5.7 There are no direct corporate/citywide implications to this report, although the 18 January CMM decision was made with regard to the corporate/citywide implications contained within the original report of the Director of Finance and Resources.

SUPPORTING DOCUMENTATION

Appendices:

1. **Appendix 1** to the report contains the Call-In request;
2. **Appendix 2** to the report contains the report from the Director of Finance and Resources which was agreed at the 18 January Central Services CMM (including a map of the site appended to the original report);
3. **Appendix 3** to the report contains the official record of the Cabinet Member's Decision in relation to this report;
4. **Appendix 4** to the report contains the minutes of the Central Services CMM;
5. **Appendix 5** to the report contains further information on this issue supplied by the Director of Finance and Resources.

Documents in Members' Rooms:

There are none.

Background Documents:

1. The Council's Constitution (May 2008)
2. The Council's Forward Plan



see email from Hatter
Councillor Les Hamilton

6 Nursery Close
 Portslade
 BN41 2SA

Mr John Barradell
 Chief Executive
 Brighton & Hove City Council

19th January 2010



Dear Mr Barradell,

Request for Call-in of Cabinet Member decision to market test Hangleton Bottom. Item 47, Central Services CMM agenda, 18th January 2010.

We would be pleased if you would consider our request for this decision to be Called-in to the relevant Overview and Scrutiny Committee / Commission on the following grounds;

- That the decision taken on the 18th January was not marked or published on the council's Forward Plan as being taken that day. It was in fact marked "deferred from November 20th 2008" and had been marked in that way on subsequent Forward Plans since October 2008. The decision is also marked as 'deferred' on the Forward Plan that runs from February 2010 to May 2010.
- The Forward Plan is a prime component of the council's new constitution and is used to inform the public and interested parties in advance as to which key decisions are being taken by Executive Councillors. It is an important form of communication and information from a council that professes to want the public to be kept informed and involved.

For an obscure reason CMM report was marked as not being a key decision, however, we believe that the CMM report's recommendations for the decision taken on the 18th January did not differ in material terms from the decision stated on the Forward Plan marked as being 'key';

"To seek agreement to the marketing approach and future use of the site"

Report recommendations;

- 2.1 *That the Cabinet Member approves the suggested approach to marketing and creating an informal planning brief for this council owned site as set out in the report.*
- 2.2 *That the Cabinet Member notes that, following market testing on the basis of an informal planning and development brief, a further report will be prepared setting out*

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 Printed on recycled, chlorine-free paper

the results and future potential options for the redevelopment of the site for Cabinet consideration.

We are concerned that there has been a deliberate attempt to mislead the public and evade the council's responsibility to have published this decision in advance on the Forward Plan in accordance with the council's constitution.

- The decision to be taken on Hangleton Bottom was marked as being a 'key' decision due to the fact that it affected more than two wards. Given that the report that went to CMM stated that the decision was not 'key' does this mean that the same decision now only affects two wards or less and what has changed? No answer could be given to this question at the CMM.
- There was no detailed supporting information attached to the CMM report on which the decision was based to demonstrate that a proper site search had taken place and how, sequentially, Hangleton Bottom had been prioritised for market testing. No supporting sections of the Waste Local Plan were included to support the decision.
- The decision to market test the site was taken before the evaluation of other potential sites had been completed and the results made known. Paragraph 6.1 of the CMM report states; *"Potential alternative sites are being evaluated through the work on the Waste and Minerals Development Framework but realistic, deliverable options in the City are likely to be extremely limited."*

The forecast in paragraph 6.1 may indeed be correct but the decision to market test one of the city's green open spaces for development is an important step and before it is taken there needs to be clear evidence to support it. We believe that this evidence was missing from the report on which the decision was based and that the public were prevented from knowing the decision was being taken by its being withheld from the Forward Plan.

For these main reasons we hope that you will agree to our request for the decision to be called-in.

Yours sincerely,



Councillor Les Hamilton

Tel/Fax: (01273) 291147
Email: leslie.hamilton@brighton-hove.gov.uk
Labour Member for South Portslade Ward



**Brighton & Hove
City Council**

Councillor Les Hamilton

6 Nursery Close
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Cllr Warren Morgan

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**CENTRAL SERVICES
CABINET MEMBER
MEETING**

Agenda Item 47

Brighton & Hove City Council

Subject:	Hangleton Bottom – Update		
Date of Meeting:	18 January 2010		
Report of:	Director of Finance & Resources		
Contact Officer:	Name:	Angela Dymott	Tel: 29-1450
		Richard Butler	29-1440
	E-mail:	angela.dymott@brighton-hove.gov.uk	
		richard.butler@brighton-hove.gov.uk	
Key Decision:	No	Forward Plan No: N/A	
Wards Affected:	North Portslade		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

1.1 To seek permission to test the market and explore the options available to the council through the development of an informal planning brief and marketing exercise on this council owned strategic site. The site has been identified as a development site with a mix of uses to include community and potential waste management uses. Since 2008 there have been some expressions of interest in the site from Commercial waste operators and from the South East Coast Ambulance Service NHS Trust seeking new accommodation as part of their “Make Ready” Strategy. The market testing will enable us to see what future proposals could be forthcoming for the comprehensive redevelopment of this site that could benefit the City and achieve a number of strategic and corporate priorities. The report is complemented by a report in Part Two of the Agenda. See Appendix A for site plan.

2. RECOMMENDATIONS:

- 2.1 That the Cabinet Member approves the suggested approach to marketing and creating an informal planning brief for this council owned site as set out in the report.
- 2.2 That the Cabinet Member notes that, following market testing on the basis of an informal planning and development brief, a further report will be prepared setting out the results and future potential options for the redevelopment of the site for Cabinet consideration.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

3.1 Hangleton Bottom is a council owned site allocated in the Local Plan and Waste Local Plan for the provision of waste facilities. The allocation is saved until

replaced by relevant policies in the Waste and Minerals Development Framework and the site is highly likely to be retained in the Local Development Framework and the Waste and Minerals Development Framework for this purpose. The site is located south of the bypass and west of Hangleton Link Road and comprises several fields let for grazing and a compound occasionally used for travellers with welfare needs. The site totals 3.3 Ha (8 acres) and is shown by bold edging on the plan attached to this report. (See attached plan at Appendix A.) The site is not within the designation order for the intended South Downs National Park. When the park is formally brought into effect in April 2010 the Area of Outstanding Natural Beauty (which largely covers the same area) will be revoked. The Local Plan does require any development on this site to take account of views from the national park and requires a sensitive development which pays attention to its impact on the landscape.

- 3.2 Sites for the development of waste facilities are in short supply therefore they comprise an important strategic asset. So far the focus for waste has been on management of municipal (primarily household) waste which is the subject of the Waste Private Finance Initiative (PFI) involving Brighton & Hove City Council, East Sussex County Council and Veolia. However the Government is encouraging closer ties between the commercial sector and municipal waste handling and treatment and councils have some responsibility to ensure organisations and business can make arrangements for the collection and disposal of their waste. With the closure of landfill sites in the area and lack of alternative waste management facilities, producers of commercial and industrial waste may struggle to make such arrangements.
- 3.3 Commercial and industrial waste from shops, hotels, restaurants etc and construction and demolition waste in the City is handled by several companies via private contracts with local businesses. They may undertake collection, recycling, waste transfer and removal to energy recovery and landfill - depending upon their particular contracts. Accordingly they are faced with similar pressures to the Council as landfill sites approach capacity, landfill tax increases (which is intended to encourage diversion from landfill) and the rising cost of transport to licensed management facilities. The lack of facilities in the City could lead to increased costs for local businesses in the City for dealing with their waste. As a comparison, commercial and industrial waste arising in the City for 2007 - 08 amounts to approximately 252,000 tonnes a year whilst household and street waste amount to approximately 114,000 tonnes a year.
- 3.4 Since 2008 there have been a number of expressions of interest in the site from commercial waste companies and interest has also been shown from the South East Coast Ambulance Service NHS Trust (SECAMB). Preliminary discussions have been held with the latter organisation and South Downs NHS Trust (SDNHS) for an alternative ambulance station site. There is also an identified need for the provision of community facilities in the Benfield locality and the development of Hangleton Bottom presents an opportunity to achieve that objective within a co-ordinated designed and developed mixed use scheme.
- 3.5 As yet none of the proposals have been worked up in any detail but the combined requirement from these external organisations could be between 2.0 -3.0 Ha (5-7.5 acres) plus the space required for community needs. In the absence of detailed designs for any components of the development it is

difficult to speculate about size and configuration but there is a need for a co-ordinated approach to the development of the site to achieve the best possible use. There is a clear need for a strategic facility to deal with a significant proportion of commercial waste generated in the City and Hangleton Bottom is therefore a key site being one of the only identified sites capable of accommodating a strategic-sized waste recovery facility, although it is not for the planning system to specify what type of technology the facility should use.

- 3.6 Whilst some requirements have been identified it is not clear what other waste companies are doing to address the demise of local landfill capacity for non-inert waste (which most commercial waste is) and the lack of industrial sites suitable for processing construction waste. In addition work needs to be done to assess the true potential of this site to meet the various needs identified so far. The intention is to work up a marketing strategy together with an informal planning brief to include possible waste and other uses - for example ambulance (office/industrial) and community use. The brief will seek to address the City's needs for a strategic facility, ensure added value from the use of the site and that as far as possible the waste use is targeted to dealing with waste generated within the City rather than net importing of waste.
- 3.7 The brief will also set out design guidance that any development must follow to minimise the visual impact on the adjoining South Downs National Park and to ensure a high quality of development on site. Not only will this set the parameters for expressions of interest but the marketing process should identify any demand and facilitate more informed consideration of the development of this site. A key consideration will be the adoption of a co-ordinated approach to the use and development of a site in a mixed scheme providing multiple benefits for the City. Planning, transportation, environmental and waste colleagues will be fully involved in working up the brief which will not only provide a framework for marketing and development but also a vehicle for consultation with the public. This will be vital given the lessons learnt regarding the level of consultation necessary both before and after planning consent was granted for the waste facilities at Hollingdean Lane.

4. CONSULTATION

- 4.1 Initial internal consultations have been held with City Planning, Transportation, Waste Collection and Disposal Authority, Finance and Legal and relevant members. Whilst not a consultation requirement at this stage of the property protocol on disposals, ward councillors have been advised of this report and our initial intentions to market test the site and will be consulted under the property disposal protocol consultation timescales once the results and future options have been assessed following the marketing of the site and prior to Cabinet approving a decision to sell. Further consultations will also be required under the property disposal protocol with potentially interested external parties as they emerge through the process and extensive public consultations will be required through the Local Authority Planning process.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 The value of the site has yet to be determined, however, given the nature of the facilities and the transaction at Hollingdean Lane it is envisaged that industrial land values would form the background of any land deal although with waste sites in short supply the ultimate settlement could be at a higher level. Developers would be required to contribute to infrastructure and s.106 requirements which would include the provision of the community facilities.

Any capital receipt generated from the disposal of the site would be used initially to offset the loss of income with the remainder used to support the corporate Strategic Investment Fund

*Finance Officer Consulted: Rob Allen
10/12/2009*

Date:

Legal Implications:

- 5.2 The Cabinet Member Meeting would be properly discharging an executive function in giving authority to the proposed marketing and options available as to the future use of the site in question at Hangleton Bottom. Only the Cabinet has authority to make any subsequent decisions to dispose of the land in question.

If, in relation to this proposal, there are any future recommended changes to the Local Development Framework and the Waste and Minerals Development Framework, these would have to be approved and adopted by Full Council.

Consulted: Lawyer: Oliver Dixon

Date: 23/12/2009

Equalities Implications:

- 5.3 The key equalities implication for the use of this site is to ensure that it meets identified waste and community needs.

Sustainability Implications:

- 5.4 The appropriate use of this site has the potential to address long term strategic waste requirements. Commercial operators will need to identify their developing needs to deal with the city's commercial and industrial waste whilst the Council seeks to identify its own longer term requirements. Such a co-ordinated approach is more likely to ensure that the correct facilities are provided and the on going costs of transportation to more distant landfill sites are limited as far as possible.

Crime & Disorder Implications:

- 5.5 The intention to seek the provision of community facilities on the site is aimed at helping address local needs thereby lessening the potential for anti- social activity. Whilst the problem of "fly – tipping " is widespread the better the system for dealing with waste in the city including well placed local facilities the greater the chance there is of reducing this problem

Risk & Opportunity Management Implications:

- 5.6 The key risk to avoid is the loss of this important waste site which should be used in the most effective way to meet city waste and other identified

requirements. Whilst it is vital to establish the level of demand by exposing the site to the market the subsequent use and development of the site must address identified and potential needs from the city. With regard to the ambulance service, if a relocation site is not soon identified the redevelopment of the Elm Grove site could be significantly hampered. A co-ordinated mix of uses stands the best chance of securing the optimum development of the site.

Corporate / Citywide Implications:

- 5.7 A well thought out and co-ordinated strategic approach to the development of this site could ensure the provision of suitable waste facilities and other uses to meet City requirements and provide a new base for the ambulance service both of which could benefit the entire City.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 Land allocated for waste facilities within the City is extremely scarce with the only other site being a 1.9 Ha (4.7 acre) site at the former Hove Goods Yard off Sackville Road which is indicated in the Waste Local Plan for waste and potential waste transfer by rail. This could accommodate waste operators although it has previously been dismissed by one. Furthermore, it is currently occupied and we have no control over its release as it is not a Council owned site. Potential alternative sites are being evaluated through the work on the Waste and Minerals Development Framework but realistic, deliverable options in the City are likely to be extremely limited.
- 6.2 Whilst it is not a requirement on the council to provide sites for commercial waste operators, it is the planning authority's responsibility to identify and facilitate the release of sufficient sites to deal with the City's waste. With a scarcity of sites for recovery facilities and landfill opportunities disappearing soon it is in the City's interest to help provide an effective local solution for dealing with its commercial and industrial waste. Commercial waste contractors are of course free to seek their own alternative solutions outside the City but these could have implications for dealing with waste generated in the City e.g increased costs because of haulage the impact of which would be passed onto local businesses. It is also important that the City takes responsibility and plays its part in managing waste within its boundaries where possible rather than relying on exports to surrounding areas.
- 6.3 There are no other sites with the unique benefits of Hangleton Bottom, namely its waste allocation in an adopted plan, its access to the A27 and strategic road network and its availability for development. Although a range of ideas have been considered for the site's development in the past its waste allocation has always been a key determining factor in limiting the development aspirations. The present proposals present an opportunity to identify demand more clearly and pursue an opportunity to facilitate the mixed development of the site whilst meeting several key objectives via a mixed use scheme. This would be of great benefit to the city and has the potential to make progress despite the current economic uncertainties because of the type of uses envisaged and the needs they address.
- 6.4 Other sites have been rejected by SECAMB, mainly on planning and availability grounds although one alternative could have been to accommodate the entire

ambulance station facility at the Council's Patcham Court Farm(PCF) site that has a planning designation for high tech business uses or general office use with consideration given to other uses which meet the council's priorities in relation to employment. An informal planning brief has been issued on PCF indicating potential ancillary uses could include a hotel. The SECAMB proposal contains a large workshop element and could take a considerable portion of the site, inhibiting office development on the remainder thereby significantly reducing the potential capital receipt and conflicting with the adjoining Patcham Village Conservation Area. The possibility of splitting the ambulance facility to accommodate the office element on PCF and the workshop element at Hangleton Bottom was ruled out as unsuitable by SECAMB.

7. REASONS FOR REPORT RECOMMENDATIONS

- 7.1 The need for both the waste and ambulance facilities is pressing and of importance to the City as a whole. Hangleton Bottom is one of the key sites which could potentially accommodate these uses and meet local community requirements. However, the full extent of the demand for the site is unclear and the site represents a finite resource. For this reason a clear corporate decision on the future use options and marketing of the site is needed to facilitate the preferred way forward. The first steps will be to prepare a marketing brief, to include an informal planning brief that will set parameters for the development and expose the site to the market to assess in greater detail the requirements of waste operators. At the same time the brief will encourage a holistic approach to the site by way of a mixed use scheme to optimise the use of available space to meet local and citywide requirements. This market response will inform the subsequent decision making process about the development of Hangleton Bottom. The process will also assist in the assessment of the potential value of the site in what is a specialised market.

SUPPORTING DOCUMENTATION

Appendices:

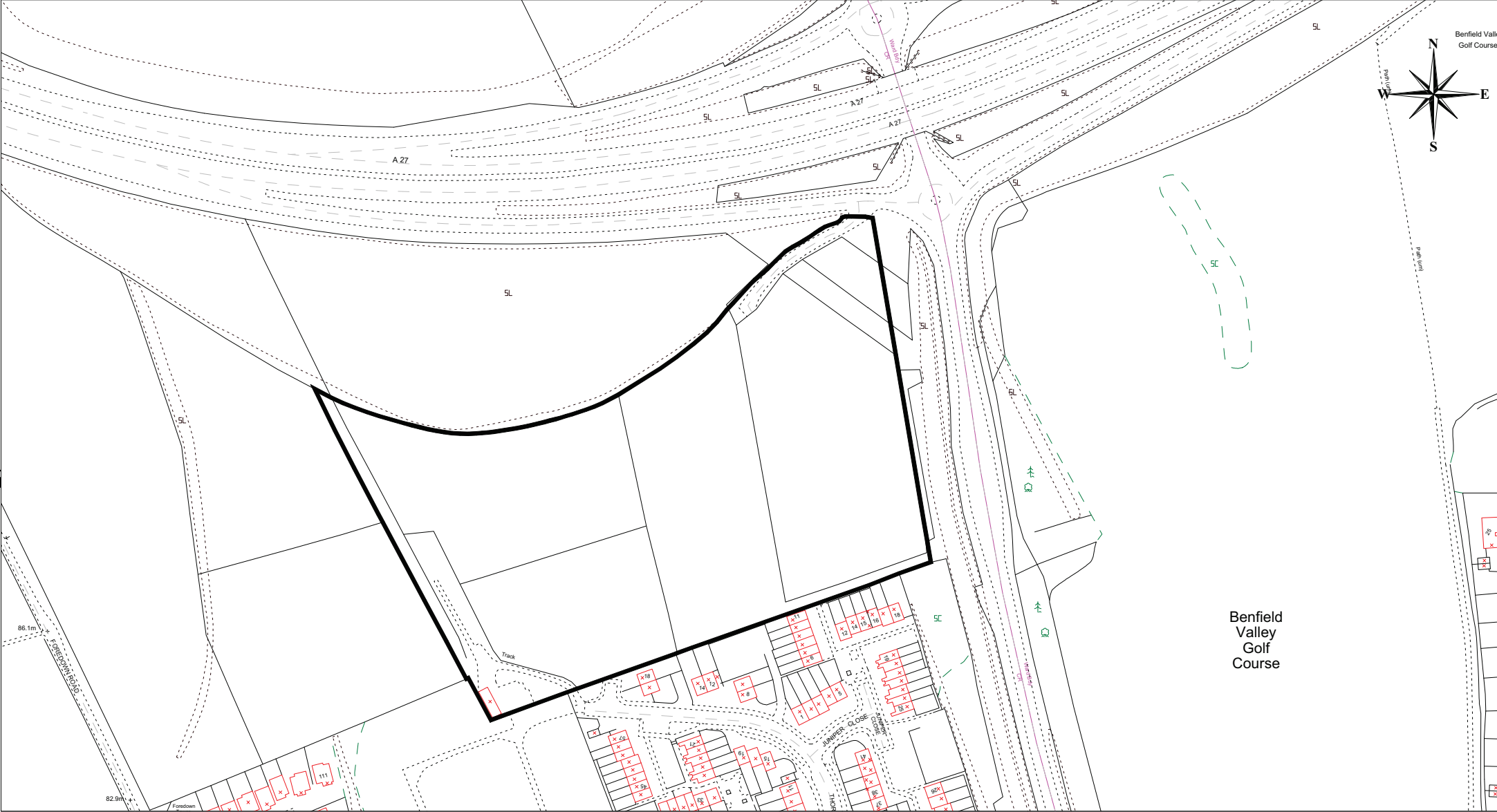
1. Appendix A: Site Location Plan

Documents In Members' Rooms

1. None

Background Documents

1. None



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Hangleton Bottom
Area 8.1 Acres



Date: 16/07/08 Scale 1:2500

Decision No: CS14 – 18 January 2010

Forward Plan No: N/A

This record relates to Agenda Item 47 on the agenda for the Decision-Making

RECORD OF CABINET MEMBER DECISION

DECISION-MAKER: COUNCILLOR AYAS FALLON-KHAN
PORTFOLIO AREA: CENTRAL SERVICES
SUBJECT: HANGLETON BOTTOM - UPDATE
AUTHOR: RICHARD BUTLER, ANGELA DYMOTT

THE DECISION

1. That the approach to marketing and creating an informal planning brief for this council owned site as set out in the report be approved.
2. That it be noted that, following market testing on the basis of an informal planning and development brief, a further report will be prepared setting out the results and future potential options for the redevelopment of the site for Cabinet consideration.

REASON FOR THE DECISION

The need for both the waste and ambulance facilities is pressing and of importance to the City as a whole. Hangleton Bottom is one of the key sites which could potentially accommodate these uses and meet local community requirements. However, the full extent of the demand for the site is unclear and the site represents a finite resource. For this reason a clear corporate decision on the future use options and marketing of the site is needed to facilitate the preferred way forward. The first steps will be to prepare a marketing brief, to include an informal planning brief that will set parameters for the development and expose the site to the market to assess in greater detail the requirements of waste operators. At the same time the brief will encourage a holistic approach to the site by way of a mixed use scheme to optimise the use of available space to meet local and citywide requirements. This market response will inform the subsequent decision making process about the development of Hangleton Bottom.

The process will also assist in the assessment of the potential value of the site in what is a specialised market.

DETAILS OF ANY ALTERNATIVE OPTIONS

1. Land allocated for waste facilities within the City is extremely scarce with the only other site being a 1.9 Ha (4.7 acre) site at the former Hove Goods Yard off Sackville Road which is indicated in the Waste Local Plan for waste and potential waste transfer by rail. This could accommodate waste operators although it has previously been dismissed by one. Furthermore, it is currently occupied and we have no control over its release as it is not a Council owned site. Potential alternative sites are being evaluated through the work on the Waste and Minerals Development Framework but realistic, deliverable options in the City are likely to be extremely limited.
2. Whilst it is not a requirement on the council to provide sites for commercial waste operators, it is the planning authority's responsibility to identify and facilitate the release of sufficient sites to deal with the City's waste. With a scarcity of sites for recovery facilities and landfill opportunities disappearing soon it is in the City's interest to help provide an effective local solution for dealing with its commercial and industrial waste. Commercial waste contractors are of course free to seek their own alternative solutions outside the City but these could have implications for dealing with waste generated in the City e.g increased costs because of haulage the impact of which would be passed onto local businesses. It is also important that the City takes responsibility and plays its part in managing waste within its boundaries where possible rather than relying on exports to surrounding areas.
3. There are no other sites with the unique benefits of Hangleton Bottom, namely its waste allocation in an adopted plan, its access to the A27 and strategic road network and its availability for development. Although a range of ideas have been considered for the site's development in the past its waste allocation has always been a key determining factor in limiting the development aspirations. The present proposals present an opportunity to identify demand more clearly and pursue an opportunity to facilitate the mixed development of the site whilst meeting several key objectives via a mixed use scheme. This would be of great benefit to the city and has the potential to make progress despite the current economic uncertainties because of the type of uses envisaged and the needs they address.
4. Other sites have been rejected by SECAMB, mainly on planning and availability grounds although one alternative could have been to accommodate the entire ambulance station facility at the Council's Patcham Court Farm(PCF) site that has a planning designation for high tech business uses or general office use with consideration given to other uses which meet the council's priorities in relation to employment. An informal planning brief has been issued on PCF indicating potential ancillary uses could include a hotel. The SECAMB proposal contains a large workshop element and could take a considerable portion of the site, inhibiting office development on the remainder thereby significantly reducing the potential capital receipt and conflicting with the adjoining Patcham Village Conservation Area. The possibility of splitting the ambulance facility to accommodate the office element on PCF and the workshop element at Hangleton Bottom was ruled out as unsuitable by SECAMB.

OTHER RELEVANT MATTERS CONCERNING THE DECISION

None

CONFLICTS OF INTEREST

The decision-maker did not declare a personal or prejudicial interest in the matters set out in the report.

CONFIRMED AS A TRUE RECORD:

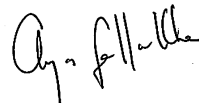
We certify that the decision this document records was made in accordance with the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 and is a true and accurate record of that decision

Date:

18 January 2010

Decision Maker:

Councillor Ayas Fallon-Khan
Cabinet Member for Central Services

Signed:

Proper Officer:

18 January 2010

Mark Wall, Head of Democratic Services

Signed:

SCRUTINY

Note: This decision will come into force at the expiry of 5 working days from the date of the meeting at which the decision was taken subject to any requirement for earlier implementation of the decision.

Call-In Period**19 – 25 January 2010**Date of Call-in (*if applicable*) (*this suspends implementation*)Call-in Procedure completed (*if applicable*)Call-in heard by (*if applicable*)Results of Call-in (*if applicable*)

**DRAFT EXTRACT FROM THE PROCEEDINGS OF THE CENTRAL SERVICES
CABINET MEMBER MEETING HELD ON THE 18 JANUARY 2010**

BRIGHTON & HOVE CITY COUNCIL

CENTRAL SERVICES CABINET MEMBER MEETING

4.30pm, 18 JANUARY 2010

COMMITTEE ROOM 1, HOVE TOWN HALL

Present: Councillor Fallon-Khan (Cabinet Member).

Also in attendance: Councillor Hamilton (Opposition Spokesperson, Labour).

Other Members present: Councillors Young, Harmer-Strange and Smart.

PART ONE

DRAFT MINUTES

47. HANGLETON BOTTOM - UPDATE

- 47.1 The Cabinet Member considered a report of the Director of Finance & Resources which sought permission to test the market and explore the options available to the council through the development of an informal planning brief and marketing exercise for the site (for copy see minute book).
- 47.2 The Cabinet Member noted that the site had been identified in the Local Plan and Waste Local Plan for community use as well as the provision of waste facilities and that following expressions of interest there was an opportunity to have a mixed-use development. He also noted that any such mixed-use development would need to take account of the highest and latest standards of technological application in terms of the treatment and disposal of waste to ensure it benefitted the community as a whole.
- 47.3 The Opposition Spokesperson expressed concern over the fact that the report was not shown as a key decision and referred to the item listed in the Forward Plan as being deferred and due for consideration in April by the Cabinet. He asked for clarification as he felt that insufficient notice of the item had been given and that the report referred only to North Portslade whereas the item on the Forward Plan listed that all wards would be affected. He suggested that the item should be deferred to the April meeting in accordance with the Forward Plan.
- 47.4 The Head of Law explained that for a matter to be on the Forward plan, it had to satisfy one of the following criteria: (i) that it had a significant impact on two or more wards and (ii) expenditure/savings exceeded £500K. He stated that it was his understanding that the report being considered today was proposing preparatory and preliminary work in relation to the marketing of the site, in order to find out about its potential use. A further report would then be referred to the Cabinet for consideration.

- 47.5 The Head of Law further noted that the recommendations contained in the current report did not commit the council to anything and, therefore, it was his view that the item was not a key decision item at this stage and advised that the Cabinet Member could continue and make a decision on the proposals.
- 47.6 The Assistant Director, Property & Design, concurred with the points made by the Head of Law. She stated that once officers had undertaken the preliminary market testing and had the results of that process, they would have more substantial information to formulate a report for the Cabinet's consideration.
- 47.7 The Opposition Spokesperson noted the clarification provided. He referred back, however, to the published forward plan and noted that the title proposed in the deferred item was very similar to the one in the report recommendations being considered today. He was concerned that the information given in this way was wrong and, therefore, incorrect. He also noted that the report indicated that ward councillors had been advised of the report; however, he had not been consulted about it.
- 47.8 The Head of Law stated that although the titles appeared the same, when looking at the specific information in the report, all that was being proposed was some initial preparatory work. He stated that if no interest was shown from the market testing, the proposal could be abandoned; if interest was shown, it could be taken forward, but that would be a matter for further on in the process. He reiterated that the proposals before the Cabinet Member were not binding the council to anything and, therefore, the item was not considered to be a key decision at this stage.
- 47.9 The Opposition Spokesperson stated that it was a green site and as such he was not happy with the proposed use for commercial and domestic waste and would pursue the matter further.
- 47.10 The Cabinet Member noted the Opposition Spokesperson concerns and comments. However, he believed that there was an obligation to look at the site's potential and explore its possible use. He accepted the clarification given by the Head of Law and noted that the recommendations did not commit the council to any action and therefore did not meet the criteria of key decision and the need to be included on the Forward Plan.
- 47.11 **RESOLVED** – That, having considered the information and the reasons set out in the report, the Cabinet Member accepted the following recommendations:
- (1) That the approach to marketing and creating an informal planning brief for this council owned site as set out in the report be approved; and
 - (2) That it be noted that, following market testing on the basis of an informal planning and development brief, a further report would be prepared setting out the results and future potential options for the redevelopment of the site for the Cabinet's consideration.

Additional Information Supplied by the Director of Finance & Resources

The Hangleton Bottom report taken to Central Services Cabinet Member Meeting on 18th Jan was an exploratory report giving early warning of our intention to test the property market to explore what interest is out in the open market for the development of this strategic council owned site. Once we have the results of this marketing exercise we will review and analyse the options, consult with the necessary parties as set out under our property protocol and prepare a detailed report for Cabinet to consider as clearly stated in recommendation 2.2 of the CS CMM report.

The information put on the forward plan in the Autumn of 2008 named the report "Hangleton Bottom – Land Use Options". The words used were – "to seek agreement to the marketing approach and future use of the site." The forward plan stated that the decision was to be taken by Cabinet. That remains the case and we are not proposing anything different. The CMM decision was dealing with an early exploratory process and, once we have undertaken the initial market testing, we will have a better idea of what the market believes it can deliver on the site. We will consult all Ward Councillors and other parties on the possible future options for the site at that stage (as set out in our property protocol on disposals) and will then prepare a much more detailed and informed report for Cabinet setting out the potential future options, land uses and implications so that Cabinet can decide on the route forward.

The assumptions behind the call in request do not accurately reflect the different stages of the process regarding the redevelopment of Hangleton Bottom site and are therefore based on a mistaken belief that the CMM was taking the substantive decision that was going to go to the cabinet. The CS CMM report was exploratory and not seeking a substantive decision. It does not commit the Council to use the site for any particular purpose and does not even commit the Council to dispose of the site. As such, it is not a key decision (it does not have a significant impact on 2 or more wards and it does not involve expenditure or saving of £500k or more.) In fact, the decision could have proceeded under officers' delegated powers. It was simply seeking permission to test and explore the market to see what appetite there is in the market to develop this site.

The next stage of the process will eventually take us to the substantive decision to be taken by Cabinet alone and enable us to see and understand the possible future use of the site. The results received from the marketing exercise will form the basis of a further detailed report about the strategic potential uses on the site that the City may want to see in the future. We will need to consult all the relevant parties on the findings of the marketing exercise and possible future options for the site and part of this consultation will be under the property protocol for disposals. The planning team also have to do more analysis on the waste needs for the City and this is being explored in tandem under the Waste and Mineral Development Framework. There are a lot of unknowns, a lot more stages of the process to explore and it could take some time before we have the detailed Cabinet report ready. It is clear

that any substantive decision on the future of the Hangleton Bottom site can and will only be taken by Cabinet. This will be a key decision having significant effect on 2 or more wards and will have financial implications of over £500k. Only this further Cabinet report will have information and ask for a decision on the possible future use of the site. As such the original forward plan wording will be adhered to and the CS CMM report supports this plan of action.

Under the council's Asset Management Plan & Corporate Property Strategy the council regularly reviews its property holdings to ensure that they are being used to their best advantage, are fit for purpose and represent value for money. Market testing is part of how we challenge the reasons for continuing to hold our property and land assets. The call in request refers to paragraph 6.1 of the CS CMM report that explains the current planning status of the site under the Waste and Mineral Development Framework and seems to indicate that suggests that the work and evaluation of sites under this Framework should be completed and made known before we test the property market. The publication of the DPD is Feb March 2010 and submission to government June 2010. Timing wise we should know the results of the evaluation of alternative waste sites under the Framework before we go out and test the market on this site and the development of the informal planning brief for the marketing exercise would reflect and contain these findings.

There has been no deliberate attempt to mislead the public and evade the responsibility to have published the decision as no substantive or key decision is being made yet. In the interests of being open and transparent we took an early report giving notice of our intention to explore the market and test the interest on this site which could have been done under officers delegated powers.

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