

# Minutes

**Special Meeting of** : The Cabinet  
**Meeting held in** : The Alamein Suite City Hall, Salisbury  
**Date** : Wednesday 31 May 2007  
**Commencing at** : 6.00 pm

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**Present:**

Councillor P W L Sample (Leader)

Councillor S R Fear (Deputy Leader) in the chair for Mr Brain's public question and item 5c.

Councillors P M Clegg (Deputy Planning and Economic Development), B E Dalton (Community and Housing), J C Robertson and Mrs H McKeown (Environment and Transport), A C R Roberts and A A P Thorpe (Resources)

The Chairman of the Council, Councillor Mrs Chettleburgh was also in attendance.

Apologies: Councillors P D Edge (Planning and Economic Development) and I R Tomes (Deputy Community and Housing)

**1. Declarations of Interest:**

Councillor P W L Sample declared a personal and prejudicial interest in agenda item 5C and the public question from Mr C Brain (annex A) and left the meeting during consideration thereof.

Councillor Dalton declared a personal interest in respect of agenda item 5c as he was also a Member of Wiltshire County Council.

**2. Minutes of Last Meeting:**

The minutes of the meeting held on 28 March 2007 were approved as a correct record and signed by the Chairman.

**3. Public Question and Statement Time:**

Mr Brain asked questions in respect of agenda item 5 attached to the minutes as *Annex A* (together with the Deputy Leader's response) and Mrs Morton (on behalf of Messrs Morton, Grant, Brain and Rothwell) asked the questions attached to the minutes as *Annex B*, which the Leader advised would be taken into account during the debate. Councillor English asked questions relating to agenda item 5 concerning the lack of a break clause in the contract and the limited reference to the local government review in the business case.



Awarded in:  
Housing Services  
Waste and Recycling Services



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## *Cabinet Decisions*

### 4. **Office Project Bourne Hill:**

The Cabinet considered the previously circulated agenda items 5a and 5b. The Leader began the debate by advising that he had received a considerable amount of correspondence on this issue and that he and his Cabinet colleagues recognised that they were faced with a very difficult dilemma, having to reflect the wishes of the electorate to cancel the office project, whilst being prudent in their actions in view of the potential impact on the Council's finances of so doing. The Leader then moved a motion detailed in the resolution below.

#### **Resolved -**

- to note the Officers' report
- to also note the comments made by the public at this meeting, and paper and questions presented by Mr Brain, Mr Rothwell, Mr Grant, Mrs Morton and Councillor English
- the Cabinet is mindful of the outcome of recent elections and the clearly expressed wishes of the electorate on the Bourne Hill project
- to note the ongoing consultation and the expected decision by the Government on the provision of local Government in South Wiltshire
- There are a large number of criticisms of the business case and the options presented in the papers before Cabinet
- The Cabinet believe that the demolition of the old Victorian building should be completed and that the debris and earth moving equipment should be removed at the earliest opportunity
- To instruct the Officers to suspend all construction work and inform the contractor accordingly
- To instruct the Chief Executive in conjunction with the Leader, Deputy Leader and relevant portfolio holders to seek independent advice on the options available to fulfil the wishes expressed by the electorate while mitigating costs against the Council
- To instruct the Chief Executive to provide suitable independent advice to inform the process and provide assistance to the Cabinet
- Once final advice has been received, the officers shall consult with local residents, community associations, county, parish and town councils and others on the desirability of the options available.
- To note in view of the above decisions, there is consequently no need for a Special Council meeting in June.

The Cabinet then considered the previously circulated agenda item 5C. The Deputy Leader moved a motion detailed under the resolution below.

**Resolved** - The Cabinet notes the supplementary report, with no action being taken pending the outcome of the external advice sought in the above resolution, when the matter contained in item 5C will be brought back to the Cabinet Members.

**Note** the Cabinet agreed that there was no need to consider the exempt report under agenda item 8

**5. Matter of Urgency:**

The Leader advised that he wished the following matter to be dealt with under urgent business -

The Leader advised that he would like a Cabinet away day with the Management Team to be organised in the near future on a weekend in the order that the Administration's priorities could be considered and developed.

**Agreed** - that the Officers organise a Cabinet/Management Team session accordingly.

*The meeting concluded at 6.30 pm  
Number of public present 50.*

**Public Question Time:**

**Prior Notification of Question**

**From:** Colin Brain  
10 College Street,  
Salisbury, SP1 3AL  
01722 328727      07795 555 925

**Question for the Chairman of the Cabinet meeting, 1800, 31<sup>st</sup> May 2007**

**Subject: Office Centralisation Project**

Mr Chairman,

I note from the revised business case (Agenda Item 5B) page 15 that the unresolved disputed public access right to some of the land on which it intends to build is not included as a weaknesses for the option of continuing the project 'As Is'. I understand that if such rights are proven after construction, the Council will be required to pull down offending parts of the new building and restore the area to the best of its ability.

I also note that in the supplementary report (Agenda Item 5C) that Council appropriation of the land under section 122 of the Local Government Act 1972 is being contemplated. From what I have read, it is generally considered that such a course, if opposed, would require eventual resolution by the Law Lords because of the legal complexity of the issues involved.

Does the cabinet accept that the risk of either continuing the project on an unclear legal basis or of initiating the proposed appropriation action 'mid-project' is too great to allow the project to be prudently continued 'As Is'?

As a supplementary question, does the chairman share my surprise that work should have started on this site without the public rights of access being properly resolved and that the nature of these legal risks have not been clearly spelt out in the various issues of the business case?

**Response to Mr Colin Brain at the Special Cabinet meeting held on 31 May 2007 from the Deputy Leader**

Para 1: The village green application which extends to some of the land on which the proposed extension to the Council would sit is identified as a threat. If the village green application were successful with regard to such land then the Council may be required to secure the removal of that part of the proposed extension that sits on it.

Para 2: Appropriation is within the gift of the Council. Any public law decision by the Council is amenable to judicial review. Very few judicial review cases which are allowed to proceed get to the House of Lords.

Para 3: The Council has the benefit of an existing injunction covering amongst other things the walled garden. In the event of any planned or actual activity on the other areas of land identified for appropriation which hindered the carrying out of works on them following any appropriation it would be open to the Council to apply to the high court to seek an extension of the injunction.

Para 4: Protest was identified as a risk. However the Council would not have been successful in applying to court for an injunction in anticipation that the risk might occur. There were no difficulties over the construction of the extension to the Arts Centre yet the current village green application also extends to the land on which the extension to the Arts Centre now sits.

Question Presented to the Cabinet meeting on 31 May 2007 by Mrs Morton

**Public Question Time:      Prior Notification of Question**

**From:** Colin Brain    10 College Street, Salisbury, SP1 3AL  
          Gavin Grant    25 Estcourt Road, Salisbury, SP1 3AP  
          Crispin Morton 2 Marlborough Road, SP1  
          Andrew Rothwell 19 Estcourt Road, Salisbury, SP1 3AP

The authors are local residents who have taken an interest in the Office Centralisation project since examining the original business case in mid-2006. They produced a review of the business case for Full Council at that time. They all have professional experience in this area which is outlined in the biographies at Appendix C.

**Question for the Chairman of the SDC Cabinet meeting, 1800, 31<sup>st</sup> May 2007**

**Subject: Office Centralisation Project**

**Question:** Will the Cabinet confirm that the statement at Appendix A represents an accurate summary of the current position of the office centralisation project and the challenge now facing the Council?

**Supplementary:** Will the Council confirm that it will not make a decision on the way ahead for the Bourne Hill project until it is able to answer with confidence the questions at Appendix B?

## **Office Centralisation Project A Summary of the Current Position**

1. The motion of the Full Council on 21 May 2007 called for a review of the Office Centralisation Project. As a result the Management Team and Heads of Financial and Legal and Property Services have identified 3 options:

- Option 1 – Continue the project
- Option 2 – Cancel the project
- Option 3 – Modify the project

2. On the one hand the Council has been given a very clear mandate in the recent elections to cancel the current approach to the Office Centralisation Project. On the other it is faced with the significant financial and legal constraints of cancelling current contracts. The challenge for the Council will be to find a revised approach that meets the mandate that has been placed upon them within the financial and legal constraints imposed by current contracts.

3. Council will recognise that both the political and the project landscapes have changed. The public have given a clear electoral mandate, the decision on Local Government Reform and Unitary Authority status is now imminent and issues have arisen regarding the public right of access and legality of appropriation. The project no longer seeks to centralise on a single site, risks that were dismissed as insignificant have come to pass and new risks have come to light.

### **Option 1 – Continue with the Project**

4. The issues are:

- The people of Salisbury District, during the recent local elections, have made clear their opposition to continuing the project as currently planned.
- The imminent decision of the Local Government Review (LGR) in July could result in significant changes to SDC rendering the current development of Bourne Hill (BH) obsolete.
- The legal status of the walled garden is in dispute and the subject of High Court proceedings. This represents a critical risk to the project.
- The potential for office centralisation has diminished markedly with the realisation that Pennyfarthing House, Wyndham Road and Depot Churchfields will still have to be retained. This clearly, will have had a significant detrimental effect on the benefits case, further calling into question the rationale for Option 1.
- There is strong evidence to suggest that the project is failing. Project performance needs to be objectively reviewed and the reasons for the current situation need to be understood and addressed before deciding to continue.

5. In the light of these concerns, in our view it would be negligent to take a decision now to continue the project as currently planned.

### **Option 2 – Cancel the Project**

6. Both the Council and the public need to understand the difference between cancelling the project and cancelling the current approach to achieve the project objectives. The original objectives of the Office Centralisation Project were focused on:

- Improving customer services
- Achieving cost savings
- Improving accessibility to council services, specifically by complying with the DDA.

7. These objectives remain worthy objectives for any council and would enjoy the support of the electorate. Hence, one has to question why a council should cancel a project that was properly focused on achieving these objectives. Developing the BH site as planned represents but one solution to the challenge – clearly one that is no longer viable.

8. It has been asserted (by the Project Management Team and the Heads of Financial and Legal and Property Services) that cancelling the project outright at this time would be a high risk strategy that could possibly bankrupt the Council. This may be so and needs to be established with greater certainty as there is currently insufficient information available in their Report to determine the exact consequences of cancelling the project.

9. Cancelling the project outright would mean disbanding the project team, cancelling contracts and leaving the BH site in an unacceptable state for all concerned.

10. In the light of these concerns, in our view it would negligent to take a decision now to cancel the project outright.

### **Option 3 – Modify the Project**

11. If Option 2 (Cancel the Project) is actually about cancelling the current approach to the project, then Option 3 is about defining the new approach to the project to meet the existing objectives. In our view, Option 3 is the only feasible option, given the information currently available.

12. This option needs to be defined explicitly and this will require:

- An objective review of current contracts for the BH site to establish room for manoeuvre and likely penalties resulting from any modification
- A genuine consultation with the public:
  - To inform them of the constraints and feasibility of options given the current situation
  - To determine exactly voters' priorities and establish what is acceptable
- A focus on the best way to achieve the objectives. This should include:
  - An objective and quantified assessment of the impact of the project on Customer Service Improvement
  - Ensuring a joined-up approach to Customer Service Improvement across a number of currently disparate strategies
  - A first-principles approach to the Business Case to ensure that it reflects the fundamental changes over the last 6 months.

### **Suggested Way Forward**

13. It would be inappropriate to make a decision before the outcome of the LGR is known. This provides a valuable opportunity to have an informed debate about how the project must change direction to develop a solution that meets all key stakeholders' needs – this time taking into account the overwhelming views of the public.

14. In our view the report and accompanying Business Case highlight the entrenched thinking adopted by the current Project Management team and Council Officers. This is partly responsible for the project finding itself in the current position and cannot be accepted as the basis for current decision-making. The Council should not accept the report presented as fait accompli and it will wish to satisfy itself that the information on which it is being asked to make a decision is accurate, complete and objective. Answers to the sorts of questions provided at Appendix B should give Council that confidence.

**QUESTIONS TO BE ANSWERED BEFORE A DECISION IS MADE****Electoral Mandate –**

- Does the Cabinet believe that the Bourne Hill project was the defining issue in the recent elections and the driving factor in Salisbury District so clearly bucking the national political trend?
- Can the Cabinet describe the mandate that they feel has been placed upon them to address the Bourne Hill issue?

**Project Status –**

- Can the Cabinet give an assessment of the current status of the Bourne Hill project, with a specific comparison of actual and planned performance in terms of Costs, Schedule, Benefits and Risk?
- Does Cabinet feel that this position is acceptable?
- If not, why is the project in this position and what is being done to remedy the situation?

**The Project Management Team –**

The Project Management team have committed a great deal of personal effort and energy to the project over several years.

**Public Right of Access -**

- The unresolved disputed public access right to some of the land on which it intends to build is not included as a weakness for the option of continuing the project 'As Is'. Is it the Council's understanding that if such rights are proven after construction, the Council will be required to pull down offending parts of the new building and restore the area to the best of its ability?
- Council appropriation of the land under section 122 of the Local Government Act 1972 is being contemplated. What is the risk that such a course, if opposed, would require eventual resolution by the Law Lords because of the legal complexity of the issues involved?
- Does the Council accept that the risk of either continuing the project on an unclear legal basis or of initiating the proposed appropriation action 'mid-project' is too great to allow the project to be prudently continued 'As Is'?

**Amendments to the Business Case –**

- The Old Swimming Pool (OSP) site is listed as being sold to achieve cost savings. On page 16 it gives the project "potential to build further accommodation if a UA is set up in future". Throughout the planning process, Councilors repeatedly assured the public that sale of the OSP site was entirely unconnected with the Bourne Hill project. Is this still true?
- Given that the Council cannot BOTH sell it and redevelop it for offices, which is it to be, and what effect (if any) does that have on the finances of the project?
- There are repeated references to the Sequential Test (ST) – notably in the assertion that the Old Sarum, Harnham & Amesbury options would fail, given the fact that a city centre site is available. Our understanding of the ST is that it is a principle which puts potential development sites into order of desirability; brown field before green field, town centre before rural, and so on. The Secret Garden could not be described as a brown field site. An out of town business park is not a green field rural location. Applying the ST such that building on a public park is preferable to building in a new business estate might possibly adhere to the letter of the ST, but certainly drives an enormous hole through the principle of it. Is it really true to say that application of the sequential test makes destruction of a public park in a city centre preferable in planning terms to building in an out-of-town business estate?



- Reference is made to “further illegal acts” at Bourne Hill. Is this an accurate description of protests at Bourne Hill or merely a telling indicator of the Project Management team’s perceptions? (If this claim cannot be substantiated it might be prudent to remove it).
- What was the process taken to update the recent Business Case?

**Implications of Termination -**

- The report states at para 3.1.2 that if the main construction contract is terminated compensation will be payable that will “as a minimum, represent loss of profit for the main contractor and sub-contractors, together with all demonstrable costs incurred”. Can the council confirm the exact wording of the contract that is relevant?
- Is this statement in para 3.1.2 accurate?
- Is this standard practice in a construction contract?
- If not, why was this clause introduced and by whom?

**Centralisation -**

- The benefit of centralising on a single site was a fundamental tenet of the original plan. Can Cabinet confirm that it is now intended to retain sites at Wyndham Road and Pennyfarthing Street as well as Churchfields and a number of rural offices?
- Are plans being considered to retain any other sites and what is the impact on the benefits that originally required centralisation on a single site?

**Unitary Authority –**

- Can the Cabinet confirm that the announcement of LGR and the application for Unitary Authority status is expected in mid-July?
- Is the Cabinet aware of the specific implications for Salisbury District if the application is approved? If the UA is not based in Salisbury, how much office space will be required for local offices where the public would interact with the authority?
- Will the Cabinet wait until the outcome of the Unitary Authority application is announced before it makes a decision on the future of the Bourne Hill project?
- How would the Cabinet respond to claims of negligence if it failed to determine the specific impact of the Unitary Authority application before making a decision on Bourne Hill?

**Improvement in the Provision of Services -**

- Can the Cabinet explain how the current project will improve the provision of services?
- What level of improvement is forecast?
- Does the Council believe that there are as yet untapped opportunities for improvement in Services that could be addressed by the project?

**Decision-making -**

- Does the Cabinet believe that the advice that they have received in this report is sufficient to make an informed decision as to the future of this project?
- If not, what further information is needed to make such a decision; who will be charged with collecting this information and how long is it likely to take?
- Can the Cabinet reassure taxpayers that they will not make a decision regarding the future of the project until they have the information to do so?

## The Authors

Colin Brain has been a local resident for 33 years. He is a chartered engineer and has a diploma in engineering management. He was part of the change teams that steered QinetiQ from a Civil Service organisation to a private company and his roles included quality and service management, market testing and IT strategy. Following return to technical management he was selected as a QinetiQ Fellow in recognition of his technical achievements and international reputation. Three years ago he founded a company to specialise in validation - helping companies justify and document their achievements - and now works with some of the largest international defence contractors and also provides training to overseas government teams.

Gavin Grant is 42 years old, married with four children and has lived in Salisbury for the last 8 years. He served as an officer in the Army for 17 years and for the last 5 years he has worked as a management consultant advising on the management of large public sector programmes. In this role he has worked in the MOD, the Home Office, the Highways Agency, the Office of the Deputy Prime Minister and Other Government Departments. He is a certified practitioner in PRINCE2 and Managing Successful Programmes (the Government's preferred project and programme management standards), a LLB (Hons) in Law and an MBA from the Cranfield School of Management.

Crispin Morton is 43 years old, married and has lived in Salisbury for the last 6 years. He served as a helicopter pilot in the Royal Navy for 18 years, before joining one of the Big 4 management consultancies in London, where he works in the Government practice – clients include the Home Office, the Department for Work & Pensions, the Department of Health, the Ministry of Defence and the Learning & Skills Council. His specialisation is the delivery of business benefits and sustainable changes in business performance as a result of best practice in Programme & Project Management; he is a certified practitioner in PRINCE2 and Managing Successful Programmes (the Government's preferred project and programme management standards), and a Certified Management Consultant of the Institute of Management Consultancy. He has a BA (Hons) in Philosophy and an MBA from the Cranfield School of Management.

Andy Rothwell is 42 years old, married with two children and has lived in Salisbury for the last 10 years. He served as an officer in the Army for 16 years, the last 7 years were spent managing high value IT projects and programmes in accordance with Government best practice. In 2002, he left the Army to pursue a career in Management Consultancy and now works for one of the major consultancies in London. He has worked in Defra, The Foreign and Commonwealth Office, MOD, DTI, European Central Bank, HBOS, US Air Force and currently for a global oil company.