

Decision No: CAB – 52 18/12/08

Forward Plan No:N/A

This record relates to Agenda Item 131 on the agenda for the Decision-Making

RECORD OF CABINET DECISION

DECISION-MAKER: CABINET

PORTFOLIO AREA: STRATEGY & GOVERNANCE

SUBJECT: 08/09 QUARTER 2 PERFORMANCE REPORT

AUTHOR: BARBARA GREEN

THE DECISION

131.3 To note;

- (1) Progress against the LAA outcomes and arrangements for further reporting and monitoring by partners.
- (2) The frequency of reporting and plans for exception reporting in the annual report, including summarised achievements for the past year and challenges for 09/10.
- (3) Arrangements for monitoring at departmental and divisional level of Departmental and Business Plans, including organisational health and equality indicators.

REASON FOR THE DECISION

To facilitate close management of the council's performance and ensure continuous service improvements.

DETAILS OF ANY ALTERNATIVE OPTIONS

None

OTHER RELEVANT MATTERS CONCERNING THE DECISION

None

CONFLICTS OF INTEREST

None

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 December 2008

Decision Maker:

Councillor Mary Mears
Leader of the Council

Signed:



Proper Officer:

18 December 2008

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.

Or: This decision is urgent and not subject to call-in (date of CE's agreement to urgency of decision).

Call-In Period

19-29 December 2008

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)*

Decision No: CAB 53 – 18/12/08 –

Forward Plan No: CAB6345

This record relates to Agenda Item 132 on the agenda for the Decision-Making

RECORD OF CABINET DECISION

DECISION-MAKER:	CABINET
PORTFOLIO AREA:	ENVIRONMENT
SUBJECT:	FURTHER REVISIONS TO THE LOCAL DEVELOPMENT SCHEME FOR THE LOCAL DEVELOPMENT FRAMEWORK 2008-2011
AUTHOR:	LISA MARSHALL

THE DECISION

- (a) To approve the revised Local Development Scheme for submission to Secretary of State subject to minor alterations that may be made in consultation with the Director of Environment and the Cabinet Member for Environment.
- (b) To agree that the LDS should be brought into effect following approval by Secretary of State.

REASON FOR THE DECISION

- (1) To ensure that there is an up to date timetable for preparing development plan documents in accordance with government guidance. In addition, to ensure that minor changes can be made, in consultation with the Cabinet Member for Environment, without the need for the document to return to Cabinet.
- (2) Should the LDS be agreed by the Secretary of State there would be no requirement for the document to return to Cabinet for adoption.

DETAILS OF ANY ALTERNATIVE OPTIONS

The main alternative options considered and evaluated in preparing the LDS relate to the type of local development documents to be prepared over the next three years, how they will be resourced, prioritised and when the key stages will be undertaken. The proposed timetable is considered the best option with the

resources available.

OTHER RELEVANT MATTERS CONCERNING THE DECISION

None

CONFLICTS OF INTEREST

None

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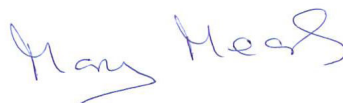
Date:

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Leader of the Council

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Proper Officer:

18 December 2008

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Call-in Procedure completed *(if applicable)*

Call-in heard by *(if applicable)*

Results of Call-in *(if applicable)*

Decision No: CAB –54 18/12/08

Forward Plan No:N/A

This record relates to Agenda Item 133 on the agenda for the Decision-Making

RECORD OF CABINET DECISION

DECISION-MAKER: CABINET

PORTFOLIO AREA: ENVIRONMENT

SUBJECT: WHITE AIR EXTREME SPORTS
FESTIVAL 2009

AUTHOR: IAN TAYLOR

THE DECISION

- (1) That landlord's consent be granted to stage White Air Extreme Sports Festival on Madeira Drive, Brighton & Hove Seafront from 18th – 20th September 2009. Reference can be made to appendix two for the exact location on Madeira Drive and adjoining beach.
- (2) That officers be authorised to enter into formal agreement with the event organisers and to determine conditions of support as appropriate.

REASON FOR THE DECISION

- (1) Landlord's consent is required for the staging of all major events within Brighton & Hove.
- (2) White Air is a valuable addition to the events calendar.

DETAILS OF ANY ALTERNATIVE OPTIONS

Not applicable

OTHER RELEVANT MATTERS CONCERNING THE DECISION

None

CONFLICTS OF INTEREST

None

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Call-in Procedure completed *(if applicable)*

Call-in heard by *(if applicable)*

Results of Call-in *(if applicable)*

Decision No: CAB – 55 18/12/08

Forward Plan No:N/A

This record relates to Agenda Item 134 on the agenda for the Decision-Making

RECORD OF CABINET DECISION

DECISION-MAKER:	CABINET
PORTFOLIO AREA:	STRATEGY & GOVERNANCE
SUBJECT:	WORKING RELATIONS WITH THE OLDER PEOPLE'S COUNCIL
AUTHOR:	ABRAHAM GHEBRE-GHIORGHIS

THE DECISION

- (1) To note the information contained within the report.
- (2) To accept the actions set out in paragraph 3.4.1 of the report.

REASON FOR THE DECISION

To improve the working relations with the Older Peoples Council.

DETAILS OF ANY ALTERNATIVE OPTIONS

- (1) The proposals were formulated in close consultation with the Older People's Council.
- (2) A more formal co-option of OPC representatives to the scrutiny structure was considered but not deemed to be appropriate.

OTHER RELEVANT MATTERS CONCERNING THE DECISION

None

CONFLICTS OF INTEREST

None.

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Call-in Procedure completed *(if applicable)*

Call-in heard by *(if applicable)*

Results of Call-in *(if applicable)*

Decision No: CAB –56 18/12/08

Forward Plan No:N/A

This record relates to Agenda Item 135 on the agenda for the Decision-Making

RECORD OF CABINET DECISION

DECISION-MAKER:	CABINET
PORTFOLIO AREA:	ADULT SOCIAL CARE & HOUSING
SUBJECT:	REVIEW OF LEARNING DISABILITY SERVICES GOVERNANCE ARRANGEMENTS
AUTHOR:	JOY HOLLISTER

THE DECISION

1) That the Learning Disability services remain the responsibility of the Director of Adult Social Care and Housing in order to execute the statutory responsibilities of the DASS.

(2) That the Executive Functions remain as they are currently set out in the constitution, thus ensuring continuity of leadership and minimising further change for those stakeholders on the Learning Disability Partnership Board.

REASON FOR THE DECISION

Current arrangements are working well and there is therefore no need for change to delegations at this point.

DETAILS OF ANY ALTERNATIVE OPTIONS

Not applicable.

OTHER RELEVANT MATTERS CONCERNING THE DECISION

None

CONFLICTS OF INTEREST

None

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Leader of the Council

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18 December 2008

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Call-in Procedure completed *(if applicable)*

Call-in heard by *(if applicable)*

Results of Call-in *(if applicable)*

Decision No: CAB – 57 18/12/08

Forward Plan No: CAB5522

This record relates to Agenda Item 136 on the agenda for the Decision-Making

RECORD OF CABINET DECISION

DECISION-MAKER: CABINET

PORTFOLIO AREA: CULTURAL SERVICES

SUBJECT: OPEN MARKET DEVELOPMENT PROPOSAL

AUTHOR: RICHARD DAVIES

THE DECISION

- (1) Note the project progress described in section 7 made since the Stage 2 submission received by the council in September 2007.
- (2) Approves the draft Heads of Terms referred to in section 5 and attached to the accompanying part two confidential report as the basis for negotiations of the Development Agreement.
- (3) Approves landowner consent for the project to continue, subject to continued engagement between officers and the Open Market Traders Association and Hyde regarding sustainability issues to seek improved sustainability performance, and the Director of Cultural Services and the Head of Law negotiate a draft Development Agreement.
- (4) Approves the delegation of authority to approve the Development Agreement to Director of Cultural Services and the Head of Law in consultation with the Cabinet Member for Enterprise, Employment and Major Projects.
- (5) Delegates authority for approval of the final scheme at RIBA Stage D, and prior the submission of a planning application, to the Director of Cultural Services in consultation with the Cabinet Member for Enterprise, Employment & Major Projects.
- (6) Agrees that the Open Market Traders Association, supported by council officers proceed to incorporate a Community Interest Company for the purpose of taking a long term lease on the new market and managing all aspects of the new market.
- (7) Supports council representation of up to 19% on the Board of the Community Interest Company to be incorporated by the Open Market Traders Association and that the Board should be made up as described in paragraph 7.2, point 6 of the report.

REASON FOR THE DECISION

(1) Members have previously received the Stage One and Two redevelopment proposals for the Open Market from the Open Market Traders Association and Hyde Housing.

(2) The officer assessment of the Association's Stage 2 proposal, submitted to the council in September 2007, identified a number of issues needing to be addressed if the proposal was to progress to the point where landowner consent could be granted. This section lists the previously identified issues (shown in italics) and reports the progress made to resolve them.

(a) *The design and operation of the development must fully address issues of sustainable design and a Health Impact Assessment ("HIA").*

- A HIA is being carried out by external consultants and is close to completing a final draft report. The initial draft of the HIA is broadly positive and makes a number of recommendations to improve the health benefits of the proposed scheme. The final report will be included in the proposed planning application for the scheme and its recommendations will be considered as part of that process.
- Hyde and the project architects have been exploring measures to achieve a Sustainable Homes Code Level 4 for the residential element of the proposal. The submitted Business Plan reports that the proposed housing scheme achieves a Code for Sustainable Homes Level 3 rating for energy use and a Level 4 rating for all other aspects. While this does not reach the level recommended in the council's SPD 08 Sustainable building design, it is acknowledged that through the planning process discussions will seek to improve the scheme where it does not currently reach the recommended standards. SPD 08 says that in assessing the achievement of the recommended sustainability standards the council will consider;
 - (i) Site constraints;
 - (ii) Technical viability;
 - (iii) Financial viability; and
 - (iv) Delivery of additional benefits.

(b) *Justify the proposal in terms of Local Plan policy, the principles of the Local Development Framework Core Strategy, the Local Transport Plan and the economic benefit for London Road.*

- The project architects have had helpful pre-application discussions with the City Planning Team to address areas of concern and to arrive at an acceptable scheme. These discussions have resulted in positive amendments to the design, particularly regarding height and massing of the north block on Francis Street, which have sought to reduce the interference of the view out of The Level Conservation Area towards St Bartholomew's church. The treatment of Francis Street has also been advanced to reduce the impact of traffic on amenity.

- Additional pre-application meetings were had at the end of November and in early December that covered a range of planning issues including potential S106 financial contributions for open space, transport and education;
- The Draft Transport Assessment will be considered by Sustainable Transport following previous feedback given to the development team;
- The latest proposal, at a height of 6 storeys, will require a Tall Buildings Statement as part of the planning application.
- Hyde will be informed of the National and Local Requirements for the submission of the full planning application.

(c.) Confirmation of the Development Vehicle and partnership arrangements.

- The latest development proposal indicates that Hyde Martlet will provide the development vehicle for the scheme and has selected a preferred developer using its procurement framework. Hyde's preferred developer is Denne Construction who are currently the contractor for the One Brighton development in the New England Quarter.
- The Association's and Hyde's solicitors have exchanged draft Heads of Terms for the Development Agreement with the council's Principal Solicitor and are continuing discussions to finalise the draft for approval by Cabinet. The draft Heads of Terms includes proposals for lease and other partnership arrangements and progress will be reported at the Project Board. This process will lead into the preparation of the Development Agreement.

(d) Confirmation of development costs and funding package.

- The Association and Hyde have significantly reduced the funding gap and the relative scheme costs through two main routes: firstly, a redesign of the scheme to increase the number of residential units: and secondly, an examination of the construction options involving Hyde's preferred contractor, who has been able to confirm costs using its established supply chains and discussions with sub-contractors. This route of involving a contractor has brought considerable benefits to the cost plan and resulted in a reduced funding requirement to be borrowed by the newly formed CIC
- Hyde has confirmed it has the funding in place to carry out the housing element of the development.
- The Association has met with the bank who's credit committee has authorised the necessary funding, subject to contract, to lend to the future CIC. This intention to lend and general support of the project has been gained on the back of the present Business Case and Management Plan, which provides a degree of confidence in the robustness of the overall proposal. The bank takes an ethical approach to banking and deals with businesses and charities that value people and planet, as well as profit.
- Ethical Property Company has reconfirmed its commitment to the project and its intention to lease the workshops. It is currently in discussions with the Association and Hyde regarding the specification and contract.
- The three funding elements including finance brought by Hyde, bank

borrowing and a lease on the workshops taken by Ethical Property Company, provide the development finance required to meet the development costs for the proposed scheme.

(e) Further detail regarding cash flow and operating costs of the new market to support the Association's ability to repay its debt.

- A reasonable increase of the present rental levels for stalls has been incorporated into the Business Plan which increases income levels to a point where the anticipated cash flow indicates that the running costs of the market and servicing the required borrowing can be met. Officers will seek further clarification of the assumptions made as part of the on-going negotiations for the draft Heads of Terms and draft Development Agreement to ensure that the cash flow is a realistic projection.

(f) Confirmation of company structure and clarification of other legal matters, including vacant possession.

- The Association has proposed incorporating a Community Interest Company ("CIC") to take the leasehold on, and be responsible for the management of, the new market. The Association has submitted proposed Memorandum of Articles for the CIC.
- A key aspect of the CIC constitution will be membership of the company Board, including council representation. The proposed Board would be made up of representatives of the Open Market Traders Association, council representation, Hyde, The Ethical Property Company and local professional co-optees. No one interest should hold a majority of votes. It is expected that for the council to avoid controlled company issues, council representation should be no more than 19%. For example, this would mean that if there were 11 people on the Board, council representatives should be at the most two of these.
- The leasing structure between the CIC, Hyde and the council and when those interests will be granted will be a part of the on-going negotiations for the Heads of Terms and Development Agreement.
- The Association's Business Plan anticipates that the council will obtain vacant possession of the Open Market. However, the council is expecting the traders to resolve this issue and the Association is discussing the surrender of leases with all leaseholders in the market. The council will only step in where statutory action is necessary and will also be responsible for the tenancies at will, the costs of which are to be underwritten by the CIC.

(g) Development of a strategy to implement the market 'Vision' and ensure local food is incorporated into the market.

- A report by consultants into the availability of local produce and how this might be integrated into the new market has been completed and offers strategies for including local producers and products in the new market. The Association has considered the recommendations of the report and supports the incorporation of local produce into the market including reserving stalls for this produce and working with any cooperatives set up to promote the

distribution and sale of locally produced goods.

(3) The latest submitted redevelopment proposal has made good progress in responding to the key issues that were previously identified and in putting together a financially viable scheme that delivers a range of benefits for the city in the difficult current economic circumstances.

(4) The Association and Hyde have put in place a funding strategy that includes finance brought by Hyde, bank borrowing and a leasehold of the workshops taken by Ethical Property Company. Agreement with the bank and Ethical Property Company is now being sought and the likelihood of success has been increased by the enthusiasm for the project shown by both organisations.

(5) The project architects have progressed pre-application discussions with the Local Planning Authority which have sought to address key issues such as the building design and the treatment of Francis Street. These discussions are on-going and have resulted in considerable progress towards achieving an acceptable scheme before submitting a planning application.

(6) Arrangements are in place to incorporate the CIC to take forward the proposal and prepare for the management of the new market.

(7) Draft Heads of Terms have been produced and are included in the part two report for approval. The agreed Heads of Terms will be the basis for negotiations to prepare the Development Agreement.

(8) If the council were to agree land owner consent for the proposal and the draft Heads of Terms as the basis for negotiating the Development Agreement, sustainability issues would form part of these negotiations and be part of the normal planning process for any development to ensure the development is acceptable in planning terms. This was confirmed at the Project Board on 26th November as a reasonable approach.

(9) In consideration of the above, the proposed scheme does offer the opportunity to achieve a viable development, which now offers the potential to deliver a range of benefits that would contribute to the regeneration of London Road Town Centre and include:

- ❖ a new covered market with 45 permanent market stalls;
- ❖ an internal central market square for temporary stalls, visiting markets and a variety of events;
- ❖ 12 arts/crafts workshops;
- ❖ 86 affordable housing units, 27 for rental and 59 shared ownership;
- ❖ A significant contribution to the regeneration of London Road Town Centre;
- ❖ Safeguarding existing, and creating new, employment opportunities by way of an expanded new market and workshops;
- ❖ Increased economic activity in London Road Town Centre;
- ❖ Reinstating Francis Street within the urban fabric.

(10) It is considered appropriate to approve land owner consent for the proposed

scheme prior to completing the Development Agreement and submitting a planning application.

DETAILS OF ANY ALTERNATIVE OPTIONS

(1) The Association and Hyde have developed the design to achieve a viable project that delivers a new covered market and workshops that is fit for purpose. This has been an iterative process with a previous two stage process leading to the final proposal now being considered. The previous stages have been assessed by the council and this has resulted in an improved scheme that is potentially viable and deliverable.

(2) The redevelopment proposal as it stands has continued to be amended to improve the residential amenity on Francis Street, including the reduction of loading bays for the market. This has resulted in a shorter stretch of loading bays, which improves conditions for the housing facing onto Francis Street as it results in fewer units at ground level opposite the loading area.

OTHER RELEVANT MATTERS CONCERNING THE DECISION

None

CONFLICTS OF INTEREST

Councillor Mears declared a personal and prejudicial interest as a stallholder. Councillor Vanessa Brown chaired the meeting for this item.

CONFIRMED AS A TRUE RECORD:

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Date:

18 December 2008

Decision Maker:

Councillor Mary Mears
Leader of the Council

Signed:



Proper Officer:

18 December 2008

Mark Wall, Head of Democratic Services

Signed:



SCRUTINY

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Call-In Period

19-29 December 2008

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)*

Decision No: CAB – 58 18/12/08

Forward Plan No: CAB4002

This record relates to Agenda Item 137 on the agenda for the Decision-Making

RECORD OF CABINET DECISION

DECISION-MAKER:	CABINET
PORTFOLIO AREA:	FINANCE & RESOURCES
SUBJECT:	PROCUREMENT OF THE CORPORATE BUILDING CLEANING CONTRACT
AUTHOR:	IAN SHARPE

THE DECISION

- (1) The re-tendering of the building cleaning contract for a 4 year period with the option to extend by a further 2 years at the council's discretion, in accordance with the tendering timetable included in this report at item 4.2 to enable the new services to commence in October 2009.
- (2) That the Director of Finance and Resources and Assistant Director Property & Design, in consultation with the Cabinet member for Central Services, be given delegated authority to award the contract to the successful bidder following evaluation and recommendations of the evaluation team.

REASON FOR THE DECISION

The existing contract is due to expire in October 2009. A new contract is needed to ensure that council sites are clean, hygienic and well presented to the public and that the buildings are safe for the council's employees.

DETAILS OF ANY ALTERNATIVE OPTIONS

- (1) Do Nothing – this was not recommended, as council buildings and schools need to be cleaned, it would not be possible to just let the current contract expire with no alternative in place.
- (2) Bring the service in-house - The possibility of bringing this contract 'in house' was considered. The current contract is valued at £1.2 million p.a. in total, a figure that would cover salaries only should we transfer 250+ cleaning/supervisory/contract management and administration staff into our employment. Additional costs would include the replacement of most of the equipment which will be nearing the end of

its' working life, the purchase of 5 vehicles for the Area supervisors, Contract Manager and mobile cleaner. It is estimated that the cost would be approximately £1.4 million p.a. plus the additional work placed on our Human Resources and Payroll teams.

(3) OGC Framework Agreements – There are no existing framework agreements that Brighton & Hove City Council could use in place of a tender process.

OTHER RELEVANT MATTERS CONCERNING THE DECISION

None

CONFLICTS OF INTEREST

None

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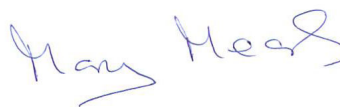
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Brighton & Hove City Council

Call-in Procedure completed (*if applicable*)

Call-in heard by (*if applicable*)

Results of Call-in (*if applicable*)

Decision No: CAB – 59 18/12/08

Forward Plan No: CAB5522

This record relates to Agenda Item 138 on the agenda for the Decision-Making

RECORD OF CABINET DECISION

DECISION-MAKER: CABINET

PORTFOLIO AREA: CULTURAL SERVICES

SUBJECT: OPEN MARKET DEVELOPMENT PROPOSALS [EXEMPT CATEGORY 1, 3, 5 & 6]

AUTHOR: RICHARD DAVIES

THE DECISION

(1) The recommendations contained in the report were approved.

REASON FOR THE DECISION

(1) Members have previously received the Stage One and Two redevelopment proposals for the Open Market from the Open Market Traders Association and Hyde Housing. The latest submitted redevelopment proposal has reached a stage where it is considered appropriate to negotiate a Development Agreement to bring forward the redevelopment of the Open Market in line with the proposed scheme

(2) Agreeing land owner consent at this stage would confirm the council's commitment to realising a new central market for the city and give Hyde as developer, the confidence to continue the process of negotiating a Development Agreement. These negotiations will address the project issues identified up to this point, as well as any others that emerge, to arrive at a balanced and viable approach to redeveloping the site.

DETAILS OF ANY ALTERNATIVE OPTIONS

As explained in 'Part One' of the report and decision record.

OTHER RELEVANT MATTERS CONCERNING THE DECISION

None

CONFLICTS OF INTEREST

Councillor Mears declared a personal and prejudicial interest as a stallholder.
Councillor Vanessa Brown chaired the meeting for this item.

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