

REPORT TO CABINET JULY 7 2008
REPORT BY: CITY SOLICITOR
WRITTEN BY: TONY MARGRAVE
Heading LAND AT FORT CUMBERLAND ROAD,
SOUTHSEA

1.0 Purpose of report

To recommend that the council approve recommendations (A) and (B).

2.0 Recommendations:

2.1 That

(A) The decision taken by the Executive on May 21, 2008 to reject the two recommendations in the report presented to the Executive on 18 December 2007, be rescinded; and that

(B) The two recommendations be approved and that the deed required by QinetiQ Limited be in the form of the draft Deed of release and grant of easement that accompanies this report.

3.0 Background

3.1 The subject matter of this report has appeared before the Executive (now named the Cabinet) on five occasions between November 19, 2007 and May 21, 2008.

3.2 It was last fully considered by the Cabinet on May 21, 2008 when advice was given to the Cabinet by the City Solicitor, and by Counsel, in response to specific questions asked by members of the Cabinet with regard to the lawfulness of rejecting the two recommendations.

3.3 That advice is summarised in the minutes of that meeting. The minutes will be presented to the Cabinet on July 7, 2008 for approval. The legal advice given then remains unchanged.

3.4 The valuation of the rights that would be granted to QinetiQ Limited, if the recommendations (B) are adopted, was settled by an external valuer last year.

3.5 Members have at previous meetings, expressed their concern with regard to the basis on which the previous report was prepared, and the adequacy of that valuation. Asset Management Service has commissioned a fresh external valuation, which will be available to the Cabinet by July 7, 2008. It will confirm that the previous valuation was determined in the correct manner, and that there should be no material

variation in the capital payment to be paid for the rights. It will also confirm that the value to the council of the covenant release is immaterial.

- 3.6 At the Cabinet meeting on May 21, 2008, the City Solicitor was asked whether notice of the two recommendations would be published as required by law (the land being open space) before the deed is completed, and before the appropriations are carried through. The City Solicitor confirmed that this was the case, and that there would be an opportunity to consider any objections at that time according to the applicable criteria.

4.0 Legal Advice

- 4.1 The City Solicitor is satisfied that it is within the Cabinet's powers to approve the recommendations as set out.

5.0 Financial Implications

- 5.1 The financial position if (A) and (B) are adopted is as follows:

- (A) If the Deed of release and grant of easement is completed this secures a capital payment to the council of £75,000. Asset Management Service has previously advised the Executive that the capital payment of £75,000 is a proper sum for QinetiQ to pay for the variation of the right of way;
- (B) If the appropriation is authorised the financial implications are neutral;
- (C) A failure to approve the recommendations will increase the current cost to the council of the judicial review proceedings brought by QinetiQ Limited.

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Michael Lawther, City Solicitor

5. Access to Information

***Background List of documents:
Section 100D of the Local Government Act 1972 - None
Title of Document Location***

The recommendation(s) set out above were approved/approved as amended/deferred/rejected by the [Executive] [Executive Member] on [date]

Signed

[Title of the Leader of the relevant executive member]