

Slough Borough Council

Report To:	Audit and Corporate Governance Committee
Date:	22 February 2023
Subject:	Update on Objection to 2018/19 Accounts and issuing of Statutory Recommendations– Purchase of Observatory House
Chief Officer:	Executive Director of Finance and Commercial (s151) – Steven Mair
Contact Officer:	Interim Financial Adviser – Mike Thomas
Ward(s):	All
Exempt:	NO
Appendices:	Appendix A Grant Thornton Statutory Recommendations Report February 2023

1. Summary and Purpose

- 1.1. To set out the report from Grant Thornton, the Council's External Auditors, in response to an objection received from a member of the public in relation to the 2018/19 Accounts with regard to the purchase of Observatory House.
- 1.2 To note the statutory recommendations, and the Council's proposed response, which is set out at paragraph 3.2.4 of this report.
- 1.3 To recommend that the Council formally respond on this basis following its meeting on 9 March 2023.

2. Recommendations

The Committee is recommended to:

1. Consider and note the statutory recommendations and the Council's proposed response.
2. Recommend to Council:
 - (a) Consider and note the statutory recommendations at its meeting on 9 March 2023.
 - (b) Accept the recommendations and the management response.
 - (c) Accept the lessons learnt and proposed action as set out in this report.
3. Recommend to Standards Committee that the recommendations and action in relation to member development should be taken into account when approving a member development programme for delivery following the 2023 elections.

4. Recommend to Cabinet that the actions in relation to Cabinet reports and business cases should be adopted.

2.3 Reason:

- 2.3.1 The Council is required under Schedule 7 of the Local Audit and Accountability Act 2014 to formally respond to these recommendations in a given timescale.

2.4 Commissioner Review

- 2.4.1 The report sets out two Statutory Recommendations issued by the external auditor to the Council under section 24 and schedule 7 of the Local Audit and Accountability Act relating to the purchase of Observatory House. This is a serious issue which relates specifically to the way the decision was made, and shortcoming in the information made available to members to inform their thinking on the decision.
- 2.4.2 The issuing of Statutory Recommendations is a serious issue – not one that is commonly made against authorities. In this case, it highlights shortcomings in the governance of Slough BC. It is important that the council learns from this and ensure proper processes are in place to ensure decisions are properly made against a background of appropriate information to inform that decision.

3 Summary Report

3.1 Background

- 3.1.1 As a result of their consideration of an objection to the Council's accounts for 2018/19, Grant Thornton, the Council's External Auditors, have decided to issue Statutory Recommendations to the Council under section 24 and Schedule 7 of the Local Audit and Accountability Act 2014. This report provides a summary of the objection and the decision so as to provide background for Members in their consideration of the Statutory Recommendations and the Council's response.
- 3.1.2 Grant Thornton received an objection from a local elector in relation to the Council's accounts for 2018/19. The objector asked them to issue a report in the public interest and to apply to the court that there is an unlawful item of account. The objection related to the Council's acquisition, completed on 24 July 2018, of a new headquarters building, Observatory House. The acquisition cost was £41m, and further costs were incurred in fitting out the building before occupation.
- 3.1.3 Having carefully considered the grounds for the objection and information provided by the Council in response, Grant Thornton have decided not to uphold the objection, and will not therefore be issuing a report in the public interest or applying to the court for a declaration that there is an unlawful item of account.
- 3.1.4 However, they have concluded that there is one issue raised by the objector which they believe merits written recommendations. This concerns the way the decision to acquire the property was taken, and in particular the limited information made available to Members at the meeting of the Cabinet on 28 May 2018 at which the decision was taken. They believe this is a significant failing in governance given the size of the transaction to which it relates.

3.2 Findings and Recommendations

3.2.1 Grant Thornton's report, which is attached at Appendix A, raises concerns about the extent of the information made available to Cabinet which would have enabled them to take an informed decision about the purchase of Observatory House.

3.2.2 Amongst the areas where Grant Thornton would have expected greater coverage and detail in the Cabinet reports were:

- The specification and quantification of the benefits of the acquisition – while many benefits are mentioned, these are not sufficiently detailed nor quantified;
- There is no consideration of alternatives in the formal information provided to members, with this having been considered informally in the March report;
- While there are some comments made about different scenarios, particularly around the letting of the upper floors, there could have been greater sensitivity analysis;
- There were some significant financial uncertainties relating to the acquisition, for example in relation to VAT and the letting of the top two floors which, while mentioned, could have been set out more clearly or, ideally, eliminated prior to the decision being taken;
- The uncertainties around the Council's own occupancy needs, the interaction with the development of neighbourhood hubs and the letting of the upper floors is a significant issue for the project on which greater quantitative information should have been provided.

3.2.2 Grant Thornton have therefore made the recommendations set out in paragraph 3.2.4 below to remind the Council to ensure that major decisions, such as this one, are supported by sufficient information and that the role of informal groups, such as the Lead Members and Directors group, does not diminish the need for detailed consideration and documentation within the formal governance arrangements which are set out in the Council's constitution.

3.2.3 Whilst Grant Thornton recognise that the concerns identified may well not have made any difference to the Council's ultimate decision to acquire Observatory House, sound decision making arrangements with appropriate documentation of the reasons for making decisions lies at the heart of sound governance. Therefore, Grant Thornton believe that it is appropriate to issue these recommendations under their formal statutory powers.

3.2.4 The detailed recommendations and suggested management response are shown below:

Area	Recommendation	Management Response/ Responsible Officer/ Due Date
Information to support decision-making	Ensure that for important (in financial or strategic terms) decisions, sufficient and adequate information is made available to members within the formal governance processes to support the decisions made, including a comprehensive business case..	It is totally supported that for important decisions, sufficient and adequate information is referred to and appended to all cabinet reports. This should include the appropriate use of split Part 1/Part 2 reports for commercial transactions. The Council has taken considerable steps to improve its evidence based decision-making processes as part of its improvement and recovery plans. This has included officer training, improvements in data collection and analysis, improvements in presentation of consultation results and benchmarking information along with extensive improvement in financial implications. Business cases have also been improved. It will be a question of fact and degree as to how much information is appended to a cabinet report and the courts have accepted that members may well take additional information into account when making decisions and that this can include information given in informal briefings. However, for transparency and record keeping, officers must and will ensure that sufficient information is included in the cabinet report to inform the recommendation.
Use of Lead Members' and Directors' Group	Ensure that the informal Lead Members and Directors Group is not used as a substitute for formal decision-making by Cabinet and other parts of the formal member structure, ensuring that there is adequate consideration and documentation of important decisions within the formal decision-making arrangements.	As is commonly understood, the Lead Member and Directors group is not a decision-making body. It was quite acceptable for discussions on office accommodation to have taken place in this forum and for a direction of travel to be explored. Indeed, having an informal forum for issues to be discussed and potential options to be identified is essential for the effective running of a council. Once it is recognised that an issue needs to be taken forward and decisions are needed, then the formal decision making arrangements should be instigated. The issue in this instance is that the reports to Cabinet were insufficient in detail and analysis, and did not consider other options appropriately, nor provide sufficient background information to properly inform members. The Council's response to the issue of quality information being provided to decision making meetings is addressed in the response to recommendation 1 above. The Council will also ensure that any material discussion points which arise in any informal settings are included in the formal reports

3.3 Lessons learnt

3.3.1 Since 2018/19, the Council has taken action to address the weaknesses identified by Grant Thornton as follows:

- Constitutional changes have been made to tighten up the Council's governance processes. This includes

May 2021 – adoption of new councillor code of conduct and changes to officer scheme of delegation to engender a culture of trust and collective responsibility.

November 2021 – change to definition of key decision to raise the financial threshold, and define how expenditure or savings should be calculated when they span several years, change to Responsibility for Executive Functions and Executive Procedure Rules to clarify the reserved functions and put in place urgency procedures for the Leader to take decisions to avoid decisions being taken at an officer level where urgent and change to Contract Procedure Rules.

July 2022 – change to Responsibility for Executive Functions and Executive Procedure Rules to increase member involvement in decisions to dispose of property assets and to add in public participation rules for cabinet meetings.

November 2022 – updated Financial Procedure Rules and Contract Procedure Rules.

- Officers have received training on the Council's revised governance and decision making arrangements;
- A new report format has been introduced which requires more detailed information to be provided and for options, risks, financial and legal implications to be clearly set out for Member consideration;
- All reports to Members now require sign-off approval by the Monitoring Officer and s151 officer or their representative, alongside comments from Commissioners regarding the overall report.

3.3.2 Further action is recommended as follows:

- Member training on governance and decision-making.
- Officer and member training on writing business cases.
- Induction and management development training on governance and decision-making.

3.3.3 The actions required to be taken will be picked up as part of the democratic governance action plan. However, it is right that both the Standards Committee and Cabinet are asked to agree the actions to ensure the member development programme is appropriately focused on governance and to ensure members hold officers to account for the quality of reports.

3.3.4 The Council is confident that its decision making arrangements have been much improved, but recognises the need to continue to maintain, embed and build upon these improvements.

4 Financial Implications

4.1.1 There will be an additional audit fee to cover the cost of responding to the objection.

5 Non-Financial Implications

5.1.1 Legal implications

5.1.1 Schedule 7 of the Local Audit and Accountability Act 2014 permits a local auditor to make a written recommendation to an authority relating to the authority or a connected entity. The recommendation can be made during or at the end of an audit. Paragraph 5 requires the Council to consider the recommendation at a meeting held before the end of the period of one month beginning on the date on which the report was sent. This matter cannot be delegated and must be considered by Full Council, although the actions required can be referred to committees and Cabinet. At the meeting, the Council must decide whether the recommendation is to be accepted and what, if any, action to take in response to the recommendation.

5.1.2 The auditor can extend the time period to allow consideration and the auditors have agreed that this matter can be considered by the Council at its meeting on 9 March 2023.

5.2 Environmental implications

5.2.1 There are no direct environmental implications resulting from this report.

5.3 Equality implications

5.3.1 There is no identified need for an equality impact assessment.

6 Risks

6.1 Failure to respond in the statutory timescale will potentially incur additional statutory recommendations.

6.2 Failure to improve governance in the areas identified will leave the council open to potential future challenges.

7 Background Papers

None.

APPENDIX A

GRANT THORNTON STATUTORY RECOMMENDATIONS REPORT



Slough Borough Council

Section 24 Statutory recommendations

February 2023





Slough Borough Council
Observatory House
25 Windsor Road
Slough
SL1 2EL

7 February 2023

Dear Sirs

[Recommendations made under section 24 schedule 7 of the Local Audit and Accountability Act 2014](#)

Our responsibilities

As well as our responsibilities to give an opinion on the financial statements and assess the arrangements for securing economic resources, we have additional powers and duties under the Local Audit and Accountability Act 2014. These include powers to issue recommendations, apply to the Court for a declaration that an item of account is contrary to law, and to give electors the opportunity to raise objections received in relation to the accounts.

We have concluded that it is appropriate for us to use our powers to make written recommendations under section 24 of the Act for the Council's decision taken in 2018 to acquire its current headquarters building, Observatory House, which still have relevance today.

What does the Council need to do next?

Schedule 7 of the Local Audit and Accountability Act 2014 requires the following actions:

The Council must consider the recommendation at a meeting held before the end of the period of one month beginning with the date on which it was sent to the Council.

At that public meeting the Council must decide

- whether the recommendations are to be accepted, and
- what, if any, action to take in response to these recommendations.

Schedule 7 specifies the meeting publication requirements that the Council must comply with.

[Julie Masci](#)

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Background to the recommendations

We have concluded that it is appropriate for us to use our powers to issues written recommendations under section 24 and schedule 7 of the Act because we have identified weaknesses in the governance arrangements for the Council's decision taken in 2018 to acquire its current headquarters building, Observatory House, which still have relevance today.

We received an objection from a local elector in relation to the Council's accounts for 2018/19. The objector asked us to issue a report in the public interest and to apply to the court that there is an unlawful item of account. The objection related to the Council's acquisition, completed on 24 July 2018, of its then -new headquarters building, Observatory House. The acquisition cost was £41m, and further costs were incurred in fitting out the building before occupation.

Having carefully considered the grounds for the objection and information provided by the Council in response, we have decided not to uphold the objection, and will not therefore be issuing a report in the public interest or applying to the court for a declaration that there is an unlawful item of account.

However, there is one issue raised by the objector which we believe merits written recommendations. This concerns the way the decision to acquire the property was taken, and in particular the limited information made available to members at the meeting of the Cabinet on 28 May 2018 at which the decision was taken. We believe this is a significant failing in governance given the size of the transaction to which it relates.

On 6 March 2018, the Council's 'Lead Members and Directors' group considered a report which assessed various options to meet the Cabinet's stated wish for the Council to relocate its headquarters to within the town centre. Acquisition of Observatory House was one of these options, and the report requested a 'steer' from members on which option(s) should be pursued further.

On 28 May 2018, the Council's cabinet considered a report on the proposed purchase of Observatory House, 25 Windsor Road. The meeting approved the acquisition of Observatory House and gave authority to the Interim Chief Executive, in consultation with the s151 officer and the Leader, to 'approve the final terms of the acquisition'.

A significant decision report dated 24 July 2018 (the date of the purchase), signed by the Interim Chief Executive, s151 officer, Leader, Director of Regeneration and project manager, confirmed the final approval of the purchase of Observatory House

Background to the recommendations (continued)

However, we have concerns about the extent of the information available to Cabinet to enable them to take that decision, and in particular the limited extent of information which was made available to councillors, through formal governance processes, to enable them to make an informed decision. Our concerns are:

- The March report was only considered by the 'Lead Members and Directors Group'. This was an informal body with no decision-making powers, the discussions of which were not in public or reported alongside the minutes of other Council committees. While no formal decision was taken, as it could not be, the officer report was brought to it to obtain a 'steer' on which option(s) to pursue in accordance with the town centre regeneration objective. We do not consider that holding such discussions in an informal, non-public forum is appropriate. Officers have stated that they believe that the use of the meeting for this purpose was appropriate, but in our view, the 'steer' provided at this meeting should have been formalised, given the size of the project and the lack of subsequent consideration of the other options at the May cabinet meeting.

- The decision to proceed with the purchase, and the associated delegation to the section 151 officer and the Leader to finalise the terms, was taken by Cabinet in a public meeting on 28 May 2018. The public agenda (Item number 4) included an eight page report, which was supported as we would expect by a restricted 'part II' report which was cross-referenced from the public report and ran to twelve pages. No separate business case was submitted to members; nor has it been provided to us. It appears that the relevant officers considered the Part II report to constitute a business case and did not prepare any other formal document. While the Part II report included some of the information we would expect to be in a business case, it was in summary form and we would have expected a more comprehensive document to be prepared and provided to members, given the value and strategic importance of the project.

Amongst the areas where we would have expected greater coverage and detail in a business case are:

The specification and quantification of the benefits of the acquisition – while many benefits are mentioned, these are not sufficiently detailed nor quantified

There is no consideration of alternatives in the formal information provided to members, with this having been considered informally in the March report

While there are some comments made about different scenarios, particularly around the letting of the upper floors, there could have been greater sensitivity analysis

There were some significant financial uncertainties relating to the acquisition, for example in relation to VAT and the letting of the top two floors which, while mentioned, could have been set out more clearly or, ideally, eliminated prior to the decision being taken.

The uncertainties around the Council's own occupancy needs, the interaction with the development of neighbourhood hubs and the letting of the upper floors is a significant issue for the project on which greater quantitative information should have been provided.

We are therefore making the recommendations set out on the following page to remind the Council to ensure that major decisions such as this one are supported by sufficient information and that the role of the Lead Members and Directors group does not diminish the need for open consideration and documentation within the formal governance arrangements. While we recognise that the concerns we have identified may well not have made any difference to the ultimate decision to acquire Observatory House, sound decision making arrangements with appropriate documentation of the background and reasons for decisions lies at the heart of sound governance, and we therefore believe that it is appropriate to issue these recommendations under our formal statutory powers.

Recommendations made under section 24 schedule 7 of the Local Audit and Accountability Act 2014

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