



Overview and Scrutiny Committee

MINUTES of the OPEN section of the Overview and Scrutiny Committee held on Monday July 27 2009 at 1.30 pm at Town Hall, Peckham Road, London SE5 8UB

PRESENT: Councillor Fiona Colley (Chair)
Councillor Jane Salmon
Councillor Toby Eckersley
Councillor Adedokun Lasaki
Councillor Veronica Ward
Councillor Lorraine Zuleta

OFFICER SUPPORT: Jon Abbott, Elephant & Castle Project Director
Edward Bannister, Field Fisher Waterhouse
Tom Branton, Chief Executive's Office
Gillian Jeffery, Legal Services
Eleanor Kelly, Deputy Chief Executive
Deborah Parker, Pricewaterhouse Coopers
Jeremy Pilgrim, Property
Stephen Platts, Head of Property
Jennifer Seeley, Assistant Finance Director
Annie Shepperd, Chief Executive
Peter Roberts, Scrutiny Project Manager

1. APOLOGIES

1.1 Apologies for absence were received from Councillors John Friary, Barrie Hargrove and Richard Thomas.

2. NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT

2.1 The chair accepted a late and urgent report, Elephant and Castle Development Agreement - Update on negotiations with Lend Lease.

3. DISCLOSURE OF INTERESTS AND DISPENSATIONS

3.1 There were no disclosures of interests or dispensations.

4. POTTERS FIELD - AGREEMENT OF HEADS OF TERMS

- 4.1 The committee went into closed session in order to consider this item.
- 4.2 The head of property introduced the report. In response to members' questions about the termination provisions he explained that the cooperation agreement remained in place until a development agreement was entered into. He also gave clarification of the development funding fee. Members were of the view that this was not sufficiently clear in the report.
- 4.3 In response to further questions the head of property confirmed that the council would have a say in selecting the investment management company. The council would also have a challenge option if it took the view that Berkeley Homes (BH) was not selling properties at the maximum possible value.
- 4.4 Members were concerned that BH would be able to raise the security referred to at paragraph 40 of the report. The head of property said that the council was confident that the security could be realised if necessary. He also confirmed that a performance payment to BH had been agreed based on end sale values of the residential element. This would be taken as a priority payment from the development account based on sales values once the criteria had been met. The head of property also confirmed that the council had agreed to share costs of developing the planning consent 50/50 with BH (paragraph 57). These costs would be excluded from the development agreement.
- 4.5 Members queried paragraph 30 of the report, in terms of capping on the residential element of the scheme on sales over an upper limit. The head of property clarified that this was on residential sales only.
- 4.6 In response to members' questions on the extent of delegation, the chief executive emphasised that any substantial variations would not be within her delegated authority and would need to be considered by the executive. Decisions taken within the delegated authority would be backed by the usual formal documentation.
- 4.7 The committee asked that the executive receive clarification/fuller information on the development funding fee and the security BH will provide to enable the council to step into the scheme in the event of default by BH.

5. ELEPHANT AND CASTLE DEVELOPMENT AGREEMENT - UPDATE ON NEGOTIATIONS WITH LEND LEASE

- 5.1 The committee noted that a redacted version of a letter from Lend Lease had been circulated. Some members were concerned that not having the complete information did not allow the committee to reach any decisions. The deputy chief executive reported that legal advice had been to remove commercially sensitive details from the letter and that the same action would have been taken if the executive's decision had been called in by the overview & scrutiny committee. The committee's need to know the full contents was balanced against commercial elements which were sensitive to the council and Lend Lease.

- 5.2 The chief executive clarified that, when Lend Lease had asked to extend its exclusivity agreement with the council, she had asked Lend Lease to evidence that it was worth extending the agreement and subsequently had decided that any extension was so significant as to warrant a formal decision by the executive. The committee's need to know was based on its need to understand the background to the extension of the contract but excluded information which was not relevant to this and which might put the council's future financial position at risk.
- 5.3 Members asked at what point the committee would have sight of the financial terms of any proposed regeneration agreement. The chair took the view that, until this point, it would not be useful for the committee to consider this issue again. The deputy chief executive responded that the committee might make an input into the financial modelling. The chair asked the chief executive and deputy chief executive to let her know when legal advice was such as to allow the committee full sight of all financial information.
- 5.4 Members asked who had been doing the modelling to date, who were the independent people and how were they chosen. The deputy chief executive reported that the director of finance was working jointly with Lend Lease on design and build of a model, assisted by two independent organisations. In response to questions the deputy chief executive confirmed that the director of finance was able to draw on both internal expertise within the council and on external advisers. Members also asked how robust the assumptions were on which any modelling was being based and whether the committee would be given the chance to challenge these assumptions. The deputy chief executive stated that she understood that the deputy leader had given an undertaking that the committee would be given this opportunity.
- 5.5 The committee noted ongoing discussions with St Modwen Properties PLC and with TfL in respect of the transport infrastructure.

The meeting ended at 3.20pm.