



## OVERVIEW & SCRUTINY COMMITTEE

MINUTES of the Overview & Scrutiny Committee held on Monday 7 February 2011 at 10.20pm at Town Hall, Peckham Road, London SE5 8UB

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- PRESENT:** Councillor Andy Simmons (Vice-Chair)  
Councillor James Barber (Reserve)  
Councillor Toby Eckersley  
Councillor Gavin Edwards  
Councillor Mark Gettleson (Reserve)  
Councillor Mark Glover  
Councillor David Hubber  
Councillor Jonathan Mitchell (Reserve)  
Councillor Helen Morrissey  
Councillor the Right Revd Emmanuel Oyewole
- OTHER MEMBERS PRESENT:** Councillor Fiona Colley, Cabinet Member, Regeneration and Corporate Strategy
- ALSO PRESENT:** Jim Patterson, Southwark Friends of the Earth
- OFFICER SUPPORT:** Jon Abbott, Elephant & Castle Project Director  
Deborah Collins, Strategic Director of Communities, Law & Governance  
Gill Davies, Strategic Director of Environment  
Doreen Forrester-Brown, Legal Services  
Peter Roberts, Scrutiny Project Manager

### 1. APOLOGIES

- 1.1 Apologies for absence were received from Councillors Tim McNally, Paul Noblet and Lisa Rajan.

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

- 2.1 There were none.

### 3. DISCLOSURE OF INTERESTS AND DISPENSATIONS

- 3.1 Councillor Eckersley declared an interest as a former cabinet member who had been involved in a related decision. He left the meeting but suggested that advice in this area needed to be reviewed as it might undermine the efficiency of the scrutiny function.

### 4. CALL-IN: MULTI UTILITIES SERVICES COMPANY (MUSCO) COMMERCIAL PARTNER (CABINET 25 JANUARY 2011)

- 4.1 Councillor David Hubber introduced the reasons for the call-in as on paper.

*“The decision gives insufficient details about (a) the alternative means to achieve the zero carbon growth (and indeed 'Climate Positive' aims) outlined in the strategy, (b) the implications of halting the procurement on other bidders who have taken part, and (c) on the EU regulation implications of carrying out a new procurement that includes the supply of other sites outside the E&C footprint.”*

*Deputation – Southwark Friends of the Earth*

- 4.2 Jim Patterson of Southwark Friends of the Earth addressed the committee. He was concerned to find out what the cabinet considered to be unworkable about the proposal and when it became clear that it was no longer viable. He was also concerned that the decision could mean that no Multi-utility Services Companies (MUSCo's) were pursued in the borough and sought assurance that there was still a commitment to zero carbon developments.
- 4.3 Councillor Fiona Colley, cabinet member for regeneration and corporate strategy, stated that the cabinet was disappointed that the decision had to be taken to end negotiations with the Dalkia consortium. Dalkia had not been able to meet the council's requirements and did not have funding. Negotiations had to end in order to find a real sustainable energy solution. The cabinet remained fully committed to zero carbon growth at the Elephant & Castle.
- 4.4 Members asked whether it would be possible to re-tender the contract or go back to some of the other original consortia. Deborah Collins, the strategic director of communities, law & governance, explained that a contract could not be re-tendered until a procurement process was completed. It was not practical to go back to previous bidders as one was no longer operating and the other had dropped out when negotiations had begun with Dalkia.
- 4.5 Gill Davies, strategic director of environment, explained that under the regeneration agreement it was up to Lend Lease to come forward with new proposals. The cabinet report set out how the commitment to reduce carbon could be taken forward.

*“The likely costs associated with a new procurement and the reduced profit share are given insufficient consideration in making the financial case for abandoning the MUSCo.”*

4.6 Members asked for clarification of the likely cost of any new procurement and the financial impact of abandoning the MUSCo. Councillor Colley emphasised that Dalkia had been unable to deliver a MUSCo and that the cabinet would not accept any further procurement costs. It was Lend Lease's responsibility to bring forward alternative proposals. She commented that it was difficult to quantify any reduced profit share but there would be ongoing costs if the council continued to negotiate with Dalkia. Gill Davies referred the committee to the closed cabinet report which addressed the issue of profit sharing.

4.7 Members were concerned whether Lend Lease had experience in providing zero carbon and combined heat and power (CHP). Councillor Colley understood that Lend Lease had a substantial record in this field. Jon Abbott, Elephant & Castle Project Director, gave examples in Greenwich Village and the Olympic Village. In their planning application, Lend Lease would also be required to demonstrate how they would reduce water consumption in the development.

*"There is no professional advice given on the impact of the decision on (a) minimum statutory building carbon emissions, (b) future carbon emission standards, (c) the existing failing district heating systems on the Aylesbury and other surrounding estates, and (d) planning permissions granted in the E&C area on the proviso that the MUSCo would be forthcoming."*

4.8 In response to questions, Councillor Colley made clear that there had been no lack of professional advice during the decision-making process. This was not a political decision but a response to Dalkia not being able to deliver the council's requirements. The cabinet remained determined to deliver regeneration.

*"The report states that there are no specific leaseholder implications, which is inaccurate if, as the report suggests, Lend Lease are to set up an ESCo that will supply energy to neighbouring roads and estates."*

4.9 Gill Davies commented that nothing could be taken to leaseholders until Lend Lease came up with options.

4.10 Members asked whether the Section 106 agreement relating to the Strata Tower would lapse if the block could not link up to a MUSCo and whether there were implications for leaseholders in the block. Jon Abbott explained that the early schemes had the capacity to connect to a MUSCo. As there was no guarantee that a system would come forward, clauses in the Section 106 agreement did not oblige the owner of the building to connect to a MUSCo.

4.11 Some members were still concerned that leaseholders had not been updated on the current situation. Cllr Colley reminded the committee that decisions of the previous administration to extend the coverage of the MUSCo to the Aylesbury Estate had not been consulted on. However she stressed again that the decision did not reflect a political agenda but was taken because the best and final offer from Dalkia did not meet the council's requirements. Lend Lease would be trying to find another solution.

**RESOLVED:**

That the cabinet decisions not be referred back and therefore be implemented immediately.

The meeting ended at 10.55pm.