



OVERVIEW & SCRUTINY COMMITTEE

MINUTES of the OPEN section of the meeting of the OVERVIEW & SCRUTINY COMMITTEE held on 25 SEPTEMBER 2003 at 5.00 p.m. at Southwark Town Hall, Peckham Road, London SE5 8UB

PRESENT: Councillor Kim HUMPHREYS (Chair)
Councillor Linda MANCHESTER (Vice-Chair)
Councillors Stephen FLANNERY (Reserve), John FRIARY,
Barrie HARGROVE, Eliza MANN, Andy SIMMONS and Anne
YATES

OFFICER Paul Evans – Strategic Director of Regeneration
SUPPORT: Ian Hughes – Head of Corporate Strategy
Lyn Meadows – Assistant Borough Solicitor
Peter Roberts – Scrutiny Team
Toby Sowter - Surveyor
Tim Thompson – Principal Surveyor

ALSO PRESENT: Karen Cooksley - Masons
L Garrett – Masons
Harry Lewis - BHSEL
Nick Stowley - BHSEL
Brian Salmon – Berkeley Group

APOLOGIES FOR ABSENCE

Apologies were received from Councillor Neil Watson.

CONFIRMATION OF VOTING MEMBERS

The Members listed as being present were confirmed as the Voting Members.

NOTIFICATION OF ANY OTHER ITEMS WHICH THE CHAIR DEEMED URGENT

The Chair agreed to accept a draft scrutiny project brief for a review of Thames Water's response to a failure of water supply in Southwark in order for Officers to commence work before the next meeting of the Committee. The Committee also agreed to receive a deputation from Masons in respect of Item 1.

DISCLOSURE OF INTERESTS AND DISPENSATIONS

Councillor Stephen Flannery declared a personal interest in item 1 as he owned a property within a quarter of a mile of the site.

RECORDING OF MEMBERS' VOTES

Council Procedure Rule 1.17(5) allows a Member to record her/his vote in respect of any motions and amendments. Such requests are detailed in the following Minutes.

Should a Member's vote be recorded in respect to an amendment, a copy of the amendment may be found in the Minute File and is available for public inspection.

The Committee considered the items set out on the agenda, a copy of which has been incorporated in the Minute File. Each of the following paragraphs relates to the item bearing the same number on the agenda.

2. SCRUTINY PROJECT BRIEF: THAMES WATER

RESOLVED: That the draft project brief be agreed subject to the following:

- i) That the learning to be derived for the Council be made explicit;
- ii) That the project brief include a review of the history of the mains at Linden Grove; and
- iii) That a press release in respect of the scrutiny be released as soon as possible.

At 5.15pm it was moved, seconded and

RESOLVED: That the meeting adjourn for 10 minutes.

The meeting reconvened at 5.25 p.m.

1. CALL-IN: APPROPRIATION FOR PLANNING PURPOSES OF COUNCIL OWNED SECTION OF POTTER'S FIELD FORMER COACH SITE (see pages 1 – 43)

Members who had requested the call-in expressed concern at a perceived lack of openness in the legal advice given to the Executive. They also felt that there should be further risk assessment particularly in respect of any compensation being due from the Council should covenants be breached.

The Assistant Borough Solicitor confirmed that advice given in private to the Executive had been summarized in the Open meeting. The Strategic Director of Regeneration indicated that the decision before the Executive had concerned appropriation for planning purposes only, it had not dealt with the ultimate development of the site. The decision had been taken in order to allow the Council the greatest flexibility in the disposition of the site; it did not preclude use of the site for any purpose. Careful consideration had been given to all issues, particularly those raised by the deputation and which had been addressed in the supplemental report.

Masons addressed the Overview & Scrutiny Committee on behalf of Berkeley Homes. In addition to the points set out in their deputation request (incorporated in the Minute file), they stated that they would apply for judicial review of the Executive's decision should it be implemented, and emphasised the following concerns:

- Failure to provide financial advice to the Executive particularly relating to possible compensation costs;
- Failure to provide advice in respects of covenants;
- Failure to consider funding implications for the Council should a cultural user come forward; and
- Failure to consider possible costs of a judicial review.

The Assistant Borough Solicitor indicated that compensation would only arise should the future development breach the covenants. The decision taken by the Executive did not give rise to any liability to pay compensation, as it did not determine the use of the land. The Assistant Borough Solicitor also stated that Berkeley Homes had been given advance notice of the report to the Executive.

The Assistant Borough Solicitor clarified the position in respect of the Berkeley Homes planning application which had been called in by the Secretary of State on grounds of non-determination.

EXCLUSION OF PRESS AND PUBLIC

At 6.20 p.m. it was proposed, seconded and

RESOLVED: That the public be excluded from the meeting for consideration of the above advice from Officers and the comments of the Deputation.

At 6.55 p.m. the meeting returned to Open session and the Chair informed the public of the Committee's decisions:

1. That the Executive reviews its decision of 9 September 2003 to appropriate the Council-owned northern section of the Potter's Field former coach park ("Potters Field") to planning purposes under Section 122 of the Local Government Act 1972, taking account of the following:
 - i) That the views of the Chief Financial Officer are sought and included in a further report; and
 - ii) That a risk assessment be undertaken covering the financial consequences of the Officer recommendations, including potential compensation if the land were used for purposes in breach of covenants and the potential cost of a judicial review of the Executive's decisions.
2. Noting that the Executive received legal advice on the issues raised before reaching its decision, that in future all Councillors present should have the opportunity of seeking clarification of the advice given; and
3. That the Executive provide a written response to Overview & Scrutiny Committee within two months of considering the above.

The meeting ended at 7.10 p.m.

CHAIR:

DATED: