



CITY OF WESTMINSTER

MINUTES

Housing, Finance and Corporate Services Policy and Scrutiny Committee

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Housing, Finance and Corporate Services Policy and Scrutiny Committee** held on **Thursday 19th January, 2017**, Rooms 5, 6 & 7 - 17th Floor, Westminster City Hall, 64 Victoria Street, London, SW1E 6 QP.

Members Present: Councillors Brian Connell (Chairman), Ian Adams, Barbara Arzymanow, Peter Freeman, Adam Hug and Roca

Also Present: Councillor Robert Davis, MBE, DL (Cabinet Member for The Built Environment), Councillor Tim Mitchell (Cabinet Member for Finance and Corporate Services), Ed Watson (Executive Director for Growth, Planning and Housing), Sarah Tanburn (Interim Head of Place Shaping), Philip Owen (Senior Asset Manager), Diana Barrett (Bi-borough Legal Services), Jennifer Muller (Bi-borough Legal Services), Muge Dindjer (Scrutiny Manager), Tara Murphy (Policy and Scrutiny Officer) and Reuben Segal (Senior Committee and Governance Officer)

Apologies for Absence: Councillor Gotz Mohindra and Councillor Jacqui Wilkinson

1 MEMBERSHIP

- 1.1 It was noted that Councillor Ian Adams had replaced Councillor Richard Holloway.

2 DECLARATIONS OF INTEREST

- 2.1 There were no declarations made.

3 CALL-IN: GARDEN BRIDGE TRUST ASSOCIATED AGREEMENTS

- 3.1 The Chairman welcomed those present to the meeting and explained its context, what a call in of a decision means, the scope of what could be scrutinised and the options available to the committee. He explained that one of the reasons why members requested an opportunity to scrutinise the decision was that it had been taken around the Christmas break and it had been difficult to obtain answers from officers on issues raised by residents and organisations.

- 3.2 The Chairman further explained that following the request to call-in the decision he had asked officers to prepare a paper on the subject showing how the decision sits in the overall Garden Bridge project and on the context of the decisions that are being reviewed.
- 3.3 Ed Watson, Executive Director for Growth, Planning and Housing, summarised the key elements in the committee paper. He notified the committee that the period by which the Garden Bridge Trust has to implement the planning consents had not yet started and that they should therefore ignore paragraph 14.1.2 of the report. He also explained that the dates in the leases by which GBT must start and complete works could be extended by the Council if it so wishes but that this was not a current proposition.
- 3.4 Councillor Robert Davis. MBE, DL, Cabinet Member for The Built Environment, addressed the Committee. He explained that the decision was taken just prior to Christmas as it had taken a number of months until both he and Councillor Mitchell were happy with the report. They had seen a number of earlier versions that they had not been entirely satisfied with and wanted additional legal advice to ensure that the Council's interests were protected and its liabilities were limited as far as possible.
- 3.5 Councillor Tim Mitchell, Cabinet Member for Finance and Corporate Services addressed the Committee. He clarified that the decision taken related to assembling the various interests around the acquisition and appropriation of land between the City Council and Transport for London. This would inform a further Cabinet Member report on disposing the land to GBT.
- 3.6 Members of the Committee then asked questions about various aspects of the decision taken by the Cabinet Members.
- 3.7 Members asked why the City Council should use its powers to facilitate the building of the bridge. The committee asked for details of the benefits that the scheme would deliver for the City of Westminster. Reference was made to the fact that in the examples where the Council had previously used such powers (Annex 2) these related to projects for the benefit of the Council.
- 3.8 Sarah Tanburn, Interim Head of Place Shaping, advised that it was open to the authority not to facilitate the land assembly to enable the bridge to be built. However, she stated that if it would not be unusual for a project of this kind for a local authority to use powers where the requester had done everything that it could to obtain the land itself and had been unsuccessful and could not proceed without the assistance of the Council. Through its planning powers the Council had considered that the scheme has sufficient merit and weight and therefore there is an expectation that it will continue.
- 3.9 Councillor Davis advised that both Councillor Mitchell and he had sat on the Planning Committee that gave planning consent to the scheme. The Committee having considered all of the issues felt that the proposal had benefits for the City. The report to the Planning Committee had been substantial and included a very detailed analysis of the scheme.

- 3.10 Sarah Tanburn clarified in respect of the examples set out in Annex 2 that the Development Site at Victoria was a purely private scheme and was analogous to the Garden Bridge.
- 3.11 The report stated that no formal position had been reached by the Council on the Garden Bridge project beyond the grant of planning permission in December 2014. It was suggested by some committee members that the decision taken by the Cabinet Members to use planning powers to appropriate land appeared to indicate support for the scheme. In response to questions, Councillor Davis clarified that there was no requirement for the Council to have adopted a formal position on the scheme before the decision was taken as under the Leader and Cabinet Model of decision-making individual Cabinet Members have the power to take decisions on matters that fall within the portfolios.
- 3.12 The Committee then considered the property and process costs and risks of costs to Westminster City Council. Sarah Tanburn summarised the acquisition and appropriation processes and the costs involved. She stated that there was a great deal of protection in place for the City Council both in terms of covering costs and against risks. She explained that the decision did involve some risks but that the Council had tried to mitigate these as far as reasonably possible.
- 3.13 Officers were asked whether the anticipated £340,000 cost of acquiring the Roof Terrace from London Underground Limited was fixed or fluid if the acquisition falls behind schedule. Ms Tanburn advised that she believed the payment to be a fixed sum but could not confirm this categorically. However, she clarified that even if this was not the case the cost to the authority would always be zero as payment for the land will be met by GBT.
- 3.14 The Committee asked how much confidence the Council has with the conclusions arrived at by Savills and Ardent that there would be no infringements on any rights to light to those adjoining and neighbouring the Garden Bridge and that the value of any potential compensation for such affect would be £nil. Officers stated that they had fair confidence in the opinions as they have been provided by professionals in this field. However, this was not to such an extent that that the Council did not ask for indemnity for costs that may be incurred through Judicial Review. The Cabinet Member for the Built Environment also highlighted that as the reports were commissioned by GBT the Council had asked and received duty of care letters from Savills and Ardent. Therefore, if their opinions are found to be incorrect the Council can take legal action against them.
- 3.15 In response to a supplementary question on how the sum of £250,000 to be held in escrow was arrived at, the Executive Director for Growth Planning and Housing explained that this was agreed following discussion with GBT and what the Trust advised was the maximum sum that they could put up for this particular issue at this time.

- 3.16 Councillors expressed concern about the risk of the bridge being left uncompleted. It was noted that while the lease agreements require GBT to return the land in the same condition in which they leased it members commented that GBT would not be able to do this if it runs out of funds.
- 3.17 Members asked whether the Council could include a condition within the leases that require the Trust to demonstrate to the Council that it has sufficient funds to complete the scheme before any construction begins. Officers explained that this was not part of the Council's present negotiation with GBT. The Cabinet Member for the Built Environment stated that this was something that would need to be considered if the decision was referred back to the Cabinet Members for reconsideration. Ed Watson stated that this would need to be undertaken in discussion with GBT to understand the issues. He stated that depending on the timing of any restrictive requirements placed on the Trust this might make it difficult for them to sign the lease under the s106 agreement which may in turn deter investors in funding the bridge.
- 3.18 Concern was also expressed at the level of contingency funds put aside by GBT which some considered insufficiently small compared to the overall cost of the project at this time.
- 3.19 The Committee noted that the GLA had agreed (although had yet to sign documentation) to act as guarantor should GBT default on their maintenance obligations under the terms of the s106 or are wound up/cease to exist. In such circumstances the guarantor will step in and undertake the GBT's maintenance obligations in full. Officers were asked to explain how this would operate and what prevents the City Council having a liability. Sarah Tanburn advised that the conditions of the planning consent for the bridge are extremely robust on this issue so that at no time shall the City Council be responsible in any way whatsoever for the maintenance of the bridge. She explained that in order to satisfy the s106 agreement GBT must produce an Operation and Management Business Plan to the satisfaction of the City Council and the London Borough of Lambeth. The essential part of that plan is that the Mayor of London takes responsibility for the operation and maintenance of the bridge as guarantor. That guarantee is dependent on GBT proving to the Mayor's satisfaction that it has a satisfactory funding strategy in place to operate and maintain the Garden Bridge for at least the first five years from its completion.
- 3.20 Members asked how the Council would ensure that the bridge if built is kept in good order. A number of members expressed the view that whilst the structure was not unique it was different to a building and would require significant maintenance. Sarah Tanburn advised that it had been the job of the Planning Committee to consider such matters, which it had at great length, and set the necessary requirements. The Cabinet Member for the Built Environment stated that there was no difference to building a bridge than any other structure in Westminster. Conditions are applied to the planning consent as necessary and if there are any breaches to these the City Council would undertake enforcement action. In this case the Council would go to the initial party, GBT, and then if necessary the guarantor.

- 3.21 In response to a further question about the possibility of having different enforcement responses as the bridge spans between two local authorities, Councillor Davis commented that this was true of any enforcement activity on a bridge that span the Thames in London.
- 3.22 The Committee then asked questions about the environmental and social well-being benefits of the bridge which were cited in the reasons for the decision.
- 3.23 Members asked whether as part of discussions relating to the acquisition and appropriation of the Roof Terrace any enquiries were made on the likely impact of the use of the underground facilities at Temple during either construction or upon completion. Mr Watson advised that there had not although he believed that the station would remain operational throughout.
- 3.24 Members asked whether as part of Planning Committee's decision any conditions were included regarding moving of any of the trees planted on the bridge. Councillor Davis advised that as a matter of policy it would be rare for the Council to agree to move trees from its side of the river not least because they do not ordinarily fair well. However, where it did it would require a replacement tree to be erected in the locality.
- 3.25 Members also asked whether the Planning Committee considered the broader environmental impacts that the bridge would have for the wider Temple area such as additional street cleaning, waste collection and possibly public order issues due to the projected large footfall? Sarah Tanburn stated that the report submitted to the Planning Committee included a section on the projected footfall and its impact. Whilst this was considered by the committee it did not directly consider the cost impact. Mr Watson advised that colleagues in City Management & Communities were consulted on this matter out of the time and they had advised that the proposition would not place any undue burden on their services.
- 3.26 Both Cabinet Members referred to the fact that the public realm in the roads leading up to the proposed bridge and the southern arm of Strand would benefit from improvement. Long standing discussions about undertaking major public realm improvements in the vicinity had already been held with a number of organisations including the local BID. This was an intention at present but there was a plan to include GBT in discussions on the North Bank Delivery Programme.
- 3.27 The Cabinet Members were asked what consideration they had given when taking the decision to the amount of public money being used to facilitate the scheme. Councillor Davis advised that it was not the Cabinet Members' responsibility to consider the overall financial costs of the bridge or the amount of money being provided by other public bodies. He explained that he was only required to assess the decision in front of him in so far as it related to Westminster and to do otherwise could render any decision taken unlawful.
- 3.28 The Committee then turned to the procedural matters set out in the report. The Cabinet Member for the Built Environment referred to a technical issue

relating to the decision. He advised that Section 122 (2A) of the Local Government Act 1972 requires advertisements for the decision to appropriate public open space for planning purposes. He advised that this would need to be undertaken if the Council was to proceed with the decision.

3.29 This concluded the committee's questions. The Chairman commented that the report before the committee had been very helpful in understanding the issues relating to the Cabinet Member decision and that it answered many of the questions where the Cabinet Member report lacked clarity.

3.30 The Chairman then asked the Committee for their views in order to come to a formal decision based on the options available to them as set out in the report.

3.31 **RESOLVED:**

1. The Committee agreed to refer the decision back to the Cabinet Members for reconsideration raising a number of concerns. It requests that these are examined and that a response on them is provided to the committee.
2. Members suggested that the Cabinet Members consider whether the City Council should require the Garden Bridge Trust to demonstrate that it has sufficient funds including contingency in place prior to construction starting on the bridge. This is in order to avoid the risk of having a half built structure if the funds run out and any costs for putting this right falling to the City Council.
3. Members were also keen to ensure understanding of the impact of the extra estimated 7m footfall that will result from the Bridge on the Council's public realm and on its services.
4. The committee also considered it essential that the Council advertises the proposed acquisition and appropriation of land as required and that it considers the responses to this consultation prior to taking a final decision on this matter.

The Meeting ended at 8.43 pm

CHAIRMAN: _____

DATE _____