

London Borough of Hammersmith & Fulham

# Audit, Pensions and Standards Committee

## Minutes



Wednesday 15 June 2016

### PRESENT

**Committee Members:** Councillors Iain Cassidy (Chair), Michael Cartwright, Ben Coleman, PJ Murphy, Guy Vincent, Mark Loveday, Michael Adam, and Donald Johnson

**Officers:** Hitesh Jolapara, Geoff Drake, Mike Sloniowski, Matt Butler, Andrew Hyatt, Kathleen Corbett, Paul Danek, Paul Monforte, Stella Baillie, George Lepine, John Quinn, and David Abbott

**Other Councillors:** Stephen Cowan (the Leader of the Council) and Greg Smith (as a trustee of Riverside Trust)

**Guests:** Andrew Sayers (Partner at KPMG), Jennifer Townsend (Senior Audit Manager at KPMG), William Burdett Coutts (Artistic Director of Riverside Studios), and Sir Christopher Powell (Trustee of Riverside Trust)

### 1. MINUTES OF THE PREVIOUS MEETING

#### **RESOLVED**

That the minutes of the meeting held on 22 March 2016 were agreed as a correct record and were signed by the Chair.

### 2. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Nicholas Botterill.

Apologies for lateness were received from Councillor Donald Johnson.

### 3. DECLARATION OF INTEREST

Councillor Mark Loveday declared a non-pecuniary interest in item 17, 'Limited and Nil-Assurance Audit Reports – Garages', as he rented a garage from the Council.

Councillor PJ Murphy declared a non-pecuniary interest in item 7, Riverside Studios Report, as he had been the Council's nominee to the Riverside Trust Board.

Councillor Greg Smith noted that he had attended the meeting as a private citizen and trustee of the Riverside Trust.

**4. APPOINTMENT OF VICE CHAIR**

**RESOLVED**

That Councillor Michael Adam be appointed Vice Chair of the Committee.

**5. PENSIONS SUB-COMMITTEE MEMBERSHIP**

**RESOLVED**

That the Committee approved the 2016/17 membership of the Pensions Sub-Committee.

**6. EXTERNAL AUDIT PLAN**

Andrew Sayers, Partner at KPMG, and Jennifer Townsend, Senior Audit Manager at KPMG, presented their plan for the audit of the 2015-16 Statement of Accounts that will take place during July and August 2016. The final accounts will be presented to the Committee in September 2016.

Andrew Sayers highlighted the key risks starting on page 3 of the report including; management override of controls, property, managed services, and to a lesser degree the Council's pension fund investments (due to their size), materiality, and governance.

Councillor Michael Adam asked if the risk assessment took account of the medium term expenditure profile. Andrew Sayers responded that they looked at the controls and processes in place designed to ensure the delivery of savings. Councillor Adam noted that the scope of the reduction in income was of a different magnitude to previous years and that radical changes sometimes brought greater risk. He asked that the auditors consider this when determining the proper level of risk.

Councillor Guy Vincent asked how the issues with managed services would affect the audit. Andrew Sayers said there would be detailed testing of the transactions and balances and auditors would look at the controls and processes that the finance team had put in place to ensure the figures were correct.

Councillor PJ Murphy asked the external auditors if, considering the significant reductions to the Council's budget, they would consider lowering their fees for 2016/17. Andrew Sayers noted that the fee was set nationally and was currently out for consultation. He said the fee was likely to remain at last year's level but it would be kept under review. The Chair thanked Andrew Sayers and Jennifer Townsend for their attendance.

## **RESOLVED**

That the Committee noted the 2015/16 Audit Plan (Appendix 1 of the report) and Progress Report and Technical Update (Appendix 2 of the report) as put forward by KPMG.

## **7. RIVERSIDE STUDIOS REPORT**

William Burdett Coutts (Artistic Director of Riverside Studios), Sir Christopher Powell (trustee of Riverside Trust), and Councillor Greg Smith (in his capacity as a trustee of Riverside Trust) attended the meeting to represent Riverside Trust.

Matt Butler, Head of Policy & Spatial Planning, presented the report and noted that it was produced in response to actions from the Committee at its meeting on 14 December 2015 regarding the planning permission for the redevelopment of the Riverside Studios and Queens Wharf. The previous report advised of a possible funding shortfall for the full re-provision of Riverside Studios, despite assurances from Riverside Studios and Mount Anvil at the planning application stage. It was on the basis of these assurances that the council effectively substituted significant numbers of affordable homes for a re-provided Riverside Studios.

Councillor PJ Murphy asked if Riverside Trust had received £7,000,000 of public funds, in the form of Section 106 payments. Sir Christopher Powell responded that the Trust had received a cash payment from the developer Mount Anvil in exchange for their lease. Councillor Murphy asked if there was any connection between the money given to the developer by the Council as Section 106 payment and the money given by the developer to the Trust. Sir Christopher Powell said they were separate deals and he did not accept that the Trust had received public money.

Councillor PJ Murphy noted that 5.22 of the report said the Trust had made it, “very clear in their commitment that the planning application with the £7 million Section 106 would fund and deliver a re-provided facility including studio, theatre and cinema”. Matt Butler added that the correspondence with Rolfe Judd Planning (page 133 of the agenda) confirmed that £7,000,000 would be sufficient for re-provision of the studios. Sir Christopher Powell disagreed and said they had always been clear that an additional £10,000,000 to £20,000,000 would be required.

Councillor Ben Coleman asked what involvement Councillor Greg Smith had in negotiating with the developer on behalf of the Council. Councillor Greg Smith said that during his time as Cabinet Member under the former administration he had recused himself from the negotiations and decisions related to Riverside Studios.

Councillor Ben Coleman asked if the Trust were aware that the money given to them by the developer for the lease was Section 106 funding. William Burdett Coutts said the developer never said that it was Section 106 money.

Councillor Michael Cartwright noted that on 19 December 2013, the previous administration called an emergency meeting of the Planning and Development Control Committee to discuss Riverside Studios. At the time, Councillor Cartwright

asked the Chair to cancel the meeting because Labour members weren't able to attend and residents wouldn't have been represented. Councillor Cartwright noted that the viability studies were confidential at that time and were not made easily available to the planning committee members. Any members who wanted to view them had to sign a non-disclosure agreement and read them in the planning offices. Any notes members made while reading them were photocopied and sent to the developer. Greg Smith said he had no knowledge of that. On 10 December 2013 the Theatre Trust had contacted the Council to raise concerns about the re-provision of community facilities (letter at appendix D of the report).

Councillor Mark Loveday asked the Leader of the Council if he had asked officers to find documents that stated £7,000,000 would be sufficient to fund the community arts facility. The Leader of the Council said he didn't believe so though he did ask officers to clarify if the Trust had received public money. He said he had serious concerns about the delivery of the community arts facility and it was right to ask for a report investigating those issues.

Councillor Michael Adam asked if representatives from the Trust could clarify the funding gap and what action they had taken to fill it (i.e. talks with prospective funders to get support letters). Sir Christopher Powell said there had always been a funding gap, it was known from the start that the £7,000,000 was not sufficient for the level of facilities planned. The Trust were currently in the process of trying to raise the additional funding.

Councillor PJ Murphy asked who, from the Trust, signed the Section 106 agreement. The representatives from the Trust were not sure who signed it but they had discussed the requirements of the agreement as a board. Councillor Murphy asked the Trust to inform the Committee who signed the Section 106 agreement, after the meeting.

Councillor Guy Vincent, addressing the Trustees, noted he had been a long-time supporter of Riverside Studios and wanted it to flourish in the future. He asked when the developer would finish their work and what Riverside Studios would get from them. Sir Christopher Powell said the developer would provide a concrete shell and core, with soundproofing, but £10,000,000 to £12,000,000's worth of additional work would be required. Councillor Vincent asked what that money would be spent on. Sir Christopher Powell said he could provide a detailed breakdown outside of the meeting. Councillor Vincent asked if the additional funding had been sourced yet. Sir Christopher Powell said they had an 'in principle' deal in place with debt funders and they expected to enter into a facility agreement at the beginning of 2019.

Councillor Guy Vincent noted that any funding would need to be serviced through interest and capital repayments leading to high annual costs. Sir Christopher Powell said debt payments would be funded by commercial leases throughout the building. Consultants had carried out an in-depth analysis of the requirements and the lenders understood their commercial position. Councillor Vincent asked if they had any commitments from businesses. William Burdett Coutts said conversations were ongoing and there should be no concerns about filling the commercial space.

Councillor Guy Vincent asked what would happen to the building if the Trust could not raise the necessary funding. Sir Christopher Powell said they could get a loan against their income stream from commercial events. Councillor Vincent asked what would happen if that was not possible. William Burdett Coutts said there were provisions in the contract with the developer but it was confidential.

Councillor Guy Vincent noted that Riverside Studios had a reputation for supporting and showing interesting, commercially risky art and asked if there would be a temptation for the Board to 'dumb down' in order to fund debt repayments. William Burdett Coutts said it was a constant challenge to balance the competing needs of art and commerce and would continue to be in the future. Those issues had been exacerbated by losing Arts Council funding recently, although they were exploring digital projects with the Arts Council to make the arts more accessible. They were also working to build relationships with other arts groups, i.e. recording shows with SPACE.

Councillor Guy Vincent felt schedule 10 of the Section 106 agreement regarding community use was very thin on provision. He asked if the Trust could go further to ensure that the studios were a part of the local community and offered real benefits to residents. Sir Christopher Powell agreed to consider additional community benefits.

Councillor Michael Adam noted that the cost of servicing the debt could be around £750,000 per year. He asked what the cash flow was for the old facility, and what it was projected to be for the new one. William Burdett Coutts said the old facility had cash flow of £2,500,000 per year and for the new facility, in year three, it would be £6,000,000. He assured the Committee that debt servicing was built into the business plan. Councillor Adam asked what the operating margin was. Sir Christopher Powell noted that a lot of income came from rentals, in excess of £1,000,000, but income from the artistic activities was very hard to predict.

Councillor Mark Loveday asked if the Trust could deliver condition 55 of the planning agreement for £7,000,000. William Burdett Coutts said no. Councillor Loveday asked what could be delivered for that level of funding. Mr Coutts said he couldn't say. Councillor Loveday noted that the Committee had concerns that condition 55 wouldn't be delivered. He asked how much additional funding was required to deliver it. Mr Coutts said around £10,000,000 to £20,000,000. Councillor Loveday noted that if the Trust didn't deliver condition 55 the developer would be in breach of the planning conditions.

Councillor Mark Loveday asked if the letter from the developer and the letter from William Burdett Coutts represented the sum total of assurances given to the Council about the facility's viability. Matt Butler responded that the viability study was assessed by Strutt & Parker and the Council was assured that £7,000,000 was sufficient. Councillor Loveday noted that the £7,000,000 figure came from the developer and they should come before the Committee to discuss delivery.

Councillor PJ Murphy asked if the Council was involved in negotiating the £7,000,000. Matt Butler confirmed that the Council had negotiated that amount as part of the wider obligations secured within the S106. Councillor Murphy asked if the Council had consulted with Riverside Studios or Riverside Trust during those

negotiations. Matt Butler said they had not, the figure was based on assurances from the developer that it was sufficient with the security that the Riverside Trust were committed as signatories to the S106.

Councillor PJ Murphy asked that the developer be invited to discuss these issues with the Committee. He also asked that the Council write to the Charities Commission to raise concerns about the running of Riverside Trust.

Councillor Stephen Cowan, Leader of the Council, addressed the Committee and noted that the Trust received £7,000,000 of Section 106 money and signed the Section 106 agreement. He said he found it difficult to believe the Trustees were not aware that the money was Section 106 funding. He asked where the money was and how it was being used. He also asked for clarification about what the facility would become if it was not used for the promised community arts venue.

Councillor Mark Loveday said he had reservations about the way the report had been presented and what it proposed. The responsibilities of the Audit function was clearly set out, its role was to advise the Executive on strategic processes and accounting policies. It was not a Policy and Accountability Committee. He had concerns that the administration had sight of the report prior to the Committee and that the Leader of the Council was advising the Committee on recommendations. He also said it was difficult to see how writing to the Charities Commission was within the remit of the Committee.

Councillor PJ Murphy responded that the Council gave £7,000,000 to an organisation and the Committee want to know where it is being spent. The purpose of writing to the Charities Commission was to highlight potentially inappropriate governance.

Councillor Ben Coleman asked why the Trust had rejected the Council's nominees to the Board. Sir Christopher Powell said the Trust had asked to meet the new nominees to see if they were like-minded. He said it was important to have a viable Board to deliver the project.

The Chair proposed the following recommendations:

- That the Committee write to the Trust for a full account of the £7,000,000.
- That the Committee write to the developer Mount Anvil to clarify who they were negotiating S106 payments with, in particular the £7m S106 payment to the Trust.
- That the Committee write to the Arts Council and Charities Commission to raise concerns about the governance of the Trust.

Councillor Mark Loveday said he couldn't support all of the proposed recommendations, however he agreed that the Committee should write to the developer as they were under planning obligations to deliver the arts facility.

Councillor Guy Vincent said he would like the Committee to have access to the contract between the developer and the Trust. He also asked that Riverside Trust be invited to provide a regular update (e.g. every three months) to the Committee on progress in raising the funding of between £10,000,000 - £20,000,000.

Councillor Michael Adam noted that the Committee's key concern was ensuring the arts facility was opened and the Trustees believed that it would happen. However, he felt they could engage further and provide evidence of where the money was being spent and give updates to the Committee.

Councillor Michael Cartwright supported inviting the developer Mount Anvil as they were the applicant. He felt the Committee should defer writing to the Charities Commission before all of the facts could be established.

#### **RESOLVED**

1. That the Committee write to Riverside Trust for a full account of the funds provided for the re-provision of a community arts facility and regular updates on progress.
2. That the Committee write to the developer Mount Anvil to clarify who they were negotiating S106 payments with, in particular the £7m S106 payment to the Trust.
3. That officers circulate the lease of land and sale of land contracts.
4. That Riverside Trust be invited to provide a regular update (e.g. every three months) to the Committee on progress in raising the funding of between £10,000,000 - £20,000,000.
5. That the Committee ask Riverside Trust to ensure that the studios will be part of the local community and offer real benefits to residents.

#### **8. CORPORATE ANTI-FRAUD END OF YEAR REPORT**

This item was deferred due to time.

#### **9. RISK MANAGEMENT HIGHLIGHT REPORT**

This item was deferred due to time.

#### **10. INTERNAL AUDIT QUARTERLY REPORT**

Geoff Drake presented the report that summarised internal audit activity from 1 January 2016 to 31 March 2016 and reported on the performance of the Internal Audit Service.

#### **RESOLVED**

That the Committee noted the contents of the report.

#### **11. ANNUAL GOVERNANCE STATEMENT ACTION PLAN AND OUTSTANDING RECOMMENDATIONS FOR EXTERNAL AUDIT**

This item was deferred due to time.

**12. HEAD OF INTERNAL AUDIT ANNUAL REPORT 2015/16**

This item was deferred due to time.

**13. INTERNAL AUDIT CHARTER AND STRATEGY - 2016 REVIEW**

This item was deferred due to time.

**14. DATES OF FUTURE MEETINGS**

The following dates were scheduled:

- 13 September 2016
- 7 December 2016

**15. EXCLUSION OF THE PUBLIC AND PRESS**

**RESOLVED**

That under Section 100A(4) of the Local Government Act 1972, that the public and press be excluded from the meeting during the consideration of the following items of business, on the grounds that they contain the likely disclosure of exempt information, as defined in paragraph 3 of Schedule 12A of the said Act, and that the public interest in maintaining the exemption currently outweighs the public interest in disclosing the information.

**16. EXEMPT MINUTES OF THE PREVIOUS MEETING**

**RESOLVED**

That the exempt minutes of the meeting held on 22 March 2016 were agreed as a correct record and were signed by the Chair.

**17. LIMITED AND NIL-ASSURANCE AUDIT REPORTS (EXEMPT)**

**Limited Assurance Report – Garages**

The Committee considered the report.

**Limited Assurance Report - Section 75 Agreements – Mental Health**

The Committee considered the report.

**RESOLVED**

That the Committee noted the contents of the report.



Meeting started: 7.00 pm  
Meeting ended: 10.10 pm

Chair .....

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