

Cabinet

Minutes

Monday 3 September 2012

PRESENT

Councillor Nicholas Botterill, Leader (+ Regeneration, Asset Management and IT)
Councillor Greg Smith, Deputy Leader (+ Residents Services)
Councillor Helen Binmore, Cabinet Member for Children's Services
Councillor Mark Loveday, Cabinet Member for Communications (+ Chief Whip)
Councillor Marcus Ginn, Cabinet Member for Community Care
Councillor Andrew Johnson, Cabinet Member for Housing
Councillor Victoria Brocklebank-Fowler, Cabinet Member for Transport and Technical Services

ALSO PRESENT

Councillor Colin Aherne
Councillor Elaine Chumnerly
Councillor Stephen Cowan
Councillor Lisa Homan
Councillor PJ Murphy

32. PIOTR MIKIEWICZ

The meeting observed a minutes silence in memory of Piotr Mikiewicz. Piotr, who worked as a street cleaner, had tragically passed away the previous week after being stabbed whilst trying to prevent a burglary in Shepherds Bush.

33. MINUTES OF THE CABINET MEETING HELD ON 23 JULY 2012

RESOLVED:

That the minutes of the meeting of the Cabinet held on 23 July 2012 be confirmed and signed as an accurate record of the proceedings, and that the outstanding actions be noted.

34. APOLOGIES FOR ABSENCE

There were no apologies for absence.

35. DECLARATION OF INTERESTS

There were no declarations of interest.

36. THE GENERAL FUND REVENUE BUDGET 2012/2013 - MONTH 2 AMENDMENTS

RESOLVED:

That the changes to the General Fund revenue budgets as set out in Appendix 1 of the agenda report be approved.

Reason for decision:

As set out in the report.

Alternative options considered and rejected:

As outlined in the report.

Record of any conflict of interest:

None.

Note of dispensation in respect of any declared conflict of interest:

None.

37. TREASURY MANAGEMENT OUTTURN REPORT

RESOLVED:

1. To note that the Council has not undertaken any borrowing for the period 1 April 2011 to 31 March 2012.
2. To note the investment activity for the period 1 April 2011 to 31 March 2012.

Reason for decision:

As set out in the report.

Alternative options considered and rejected:

As outlined in the report.

Record of any conflict of interest:

None.

Note of dispensation in respect of any declared conflict of interest:

None.

38. EARL'S COURT REDEVELOPMENT AND STATUTORY AND WIDER CONSULTATION

The Cabinet gave detailed consideration to a report which set out the terms of a Conditional Land Sale Agreement (CLSA) which would grant an option to the Capital and Counties Properties PLC group of companies (Capco) to include Council owned land including the West Kensington and Gibbs Green estates in a comprehensive redevelopment scheme. At the same time Members also received and considered the final analysis of consultation responses and the equalities impact assessment in respect of the proposals.

The Chairman invited the Executive Director of Housing and Regeneration, Melbourne Barrett, to introduce the report.

Mr Barrett emphasised that the decision before Members was very significant for the Authority. Recommending that the Cabinet should agree that it was willing to enter into the Conditional Land Sale Agreement, Mr Barrett acknowledged the disturbance and disruption to residents but considered that this needed to be balanced against the very significant benefits to the local community and the wider area provided by such a major opportunity for growth and development. The 10m sq ft mixed use development would yield 7,500 new homes, including 760 new replacement homes, 2m sq ft of commercial space, 36,000 temporary construction jobs and 9,500 permanent jobs, a park, playgrounds and other facilities for children. The development was expected to bring in £99m pa of additional expenditure in the local economy.

Mr Barrett outlined details of the CLSA and the advantages and safeguards for tenants and leaseholders. It was noted that the Conditional Land Sale Agreement provided for the transfer of the Council's land in phases with replacement homes provided by the developer prior to any transfer. It was anticipated that the first phase of replacement housing would be provided on Capco's land at Seagrave Road, facilitating a 'one move only' approach. Existing Council tenants, resident leaseholders and freeholders would be guaranteed a brand new replacement home within the development, compliant with the Mayor of London's design guidance standards.

Tenants would remain secure tenants of the Council paying Council rents. They would also receive a statutory home loss payment of £4,700, a disturbance payment to cover moving costs and new white goods, carpets and curtains. Resident leaseholders/freeholders would receive market value plus 10% statutory home loss payment (subject to a maximum £47,000) and a further 10% early purchase discount on a replacement property. If necessary the Council would bridge the gap in value between the resident leaseholders and freeholders old and new properties and hold the value as equity so no additional borrowing would be required.

It was emphasised that as the housing stock was not being transferred there was no requirement for a tenant ballot. The phased nature of the development would enable whole communities to be moved together. Dedicated re-housing officers would be available on site to offer advice and support to residents on a one to one basis.

Mr Barrett explained that the proposals also offered substantial benefits to the Council, enabling existing housing stock to be replaced on a new for old basis, avoiding significant maintenance liabilities on the estates and allowing the 16% of existing tenants who were overcrowded to be re-housed in homes with sufficient bedrooms to meet their needs. The use of private sector finance through the developer meant that this could be achieved without recourse to scarce public funding. The design and method of construction was safeguarded by a requirement that the Council approve each phase of replacement housing.

Mr Barrett emphasised that the Council had retained expert external advice in this matter which had confirmed that the proposed transaction would be highly beneficial for the Council and its residents. Richard Budge, attending the meeting on behalf of legal advisers SNR Denton, informed Members that the terms now presented were consistent with the provisional terms endorsed by the Cabinet in April and that the Council could terminate the agreement if Capco failed to deliver up to 50% of the social rented units within 10 years. Christopher Pratt of Jones Lang Lasalle (JLL) was able to confirm that the commercial terms were also substantially unchanged and the 760 new replacement homes and £105m remained best consideration for the Council's land. Jon Webber of PricewaterhouseCoopers (PWC) advised that financial due diligence on the project had been satisfactorily undertaken.

The Cabinet was informed of details of the 9 week public consultation exercise undertaken in respect of the proposals. It noted that 30,000 information packs and feedback forms had been distributed. Some 1,405 responses had been received, 779 from 516 properties on the estates and 626 from the wider area. The majority of those objecting to the proposals were residents of the estates while the majority of favourable responses were drawn from the wider area. For the purposes of the statutory consultation under section 105 of the Housing Act, which related only to those named on tenancy agreements, 324 (55%) of the 584 eligible secure council tenants responded, with 103 (32%) in favour of the proposal, 213 (66%) in opposition to it, 1 expressing concerns and 7 (2%) did not express an opinion. It was noted that of those Council tenants eligible to participate in the section 105 consultation, 260 (45%) did not do so.

Mr Barrett informed Members that the consultation had illustrated there was still a lack of understanding amongst individual residents about what would happen to them if the redevelopment went ahead. This would be addressed through one to one meetings designed to fully inform residents and deal with individual concerns.

The Cabinet noted that the Analysis of Responses to Consultation at Appendix 5 of the report contained Officer comments on the points raised in the consultation together with correspondence from and response to the TRAs' submission, a letter from Mr Andrew Slaughter MP and additional representations. It was noted that the TRAs' preference was for no comprehensive development and a stock transfer away from the Council. Members noted that this would mean the loss of the regeneration and economic development benefits of the project. It was unclear how the stock transfer would be funded in terms of paying for the initial transfer of homes, clearing the existing debt associated with the housing stock, future improvements and maintenance obligations. Mr Barrett advised that in the view of Officers a stock

transfer would be premature. The Council would acquire a 995 year lease (virtual freehold) on the new replacement homes and could consider transfer of its virtual freehold in this manner following completion of the redevelopment scheme, once the regeneration benefits had been realised.

Mr Barrett also appraised the Cabinet of the outcome of the Equalities Impact Assessment undertaken on the proposals. It had been found that the impact of moving home could be greater for elderly residents or those with disabilities. The maintenance of existing support networks and the assistance of re-housing Officers would be particularly important for these groups. There could also be a negative impact for people under-occupying properties. A single person with a three bedroom home would, for example, be allocated a two bedroom home by way of replacement. This would be balanced by the positive impact on families who were currently overcrowded. A Tenants Needs Analysis would ensure that they were allocated sufficient bedrooms to more appropriately meet their needs. An above average number of residents from black and minority ethnic communities would feel any adverse impact of the scheme because a higher proportion in those groups lived on the estate compared to Borough wide or London averages.

The Cabinet received three deputations on the proposals, from Richard Osband, a West Kensington Estate Resident, Keith Drew of West Kensington and Gibbs Green Residents Group and Maureen Way of the West Kensington and Gibbs Green Steering Group.

Richard Osband raised concerns about the nature of the relationship between the Council's advisors PWC and JLL, and Capco, claiming that they were the same companies which certified Capco's accounts and valuation of the scheme. Mr Osband questioned whether it was right for Capco's three executive directors to take bonuses averaging £575,000 for what he felt was the destruction of residents homes and Earls Court. He noted that Transport for London, as the freeholder of the Earls Court Exhibition Centre, had yet to consider the scheme and could, by forcing Capco to keep the Centre open, effectively block the plans. In his view this made any decision on a CLSA premature. Mr Osband queried whether an alternative plan could have been realised by the Council working with TfL and their own development partner.

Finally, Mr Osband expressed concern at the involvement of Thomas and Raymond Kwok, who had purchased 50% of Seagrave Road from Capco and were currently facing bribery and corruption charges in Hong Kong. Questioned by Councillor Cowan as to why he no longer considered the scheme good value, Mr Osband replied that he was disturbed at the 20 year option agreement for Capco and at apparent promises that residents would be prioritised for an early move to the new Seagrave Road properties if they supported the scheme.

The Chairman, in response to Mr Osband's presentation, emphasised that it was not possible to comment on the position in respect of the Kwoks prior to trial but assurances had been received from Capco that alternative sources of funding would be available if the deal with the Kwoks could not be realised.

Mr Drew informed the Cabinet that residents were scared that they were going to lose their homes, their communities would be disrupted and they would be subjected to physical and emotional upheaval. He felt that the Council had not given sufficient consideration to the consultation response, which he considered showed strong opposition to the scheme, or responded properly to major flaws identified by residents. Mr Drew was of the view that the residents should be given the opportunity to own and manage their own estates and had been denied a ballot on a stock transfer. He suggested that the scheme sought to derive party political advantage and transfer poorer residents away from the area. He was concerned that despite apparent promises to residents in respect of priority for homes in the Seagrave Road development, no properties had yet been allocated.

Finally, Maureen Way spoke in favour of the proposals, emphasising that they were the best thing that could happen to residents. She and her fellow residents had been working on the scheme with the Council and the developer for three years and they felt that the best possible outcome had now been achieved for tenants, leaseholders and freeholders. She felt that the proposals would improve children's play facilities, bring economic benefit and put life back into Fulham.

Following the presentations and deputations the Chairman provided each Member present with the opportunity to ask questions of Officers and the Council's advisors.

In response to questions from Councillor Colin Aherne, the Chairman confirmed that the scheme would be unable to proceed without TFL's consent but emphasised that it was appropriate to bring the proposals before the Cabinet at this stage, prior to Planning consent, because there needed to be a starting point and the approvals process contained sufficient checks and balances. The Chairman and Mr Barrett refuted suggestions that residents had been misled into believing that the new homes would be larger than the existing units, highlighting that of the 9 comparative room sizes contained in the report, 7 were larger in the new properties. Some of the bedrooms would be smaller but the typical layout of properties had changed in the 40 years since the existing homes had been built and it was now more common for living areas to be larger.

Mr Barrett recognised that there were strongly held views on the consultation, as expressed by Councillor Aherne, but emphasised that whilst the majority of the statutory Section 105 consultees who responded were against the proposals, a significant number, some 45%, had not supplied any comment.

Councillor Stephen Cowan enquired about the nature of the working relationship between the Council and Capco. He was informed that the relationship was close but not inappropriate. Officers sought to represent the best interests of the Council and were supported in negotiations by top quality advisors.

Councillor Cowan asked a series of questions concerning the existence of a list of supporters of the proposals who it was alleged had been promised priority in the allocation of the new housing units and efforts to investigate the matter. Mr

Barrett informed the Cabinet that decisions on the allocation of housing would be made in accordance with the Earls Court/West Kensington Local Lettings Policy, as described in Appendix 7 of the report, which would be overseen by the Director for Housing Options. He was not in a position to confirm the precise date he had first become aware of claims of the existence of such a list but once the allegation had come to his attention he had taken briefings from Project Officers and confirmed, for the avoidance of any doubt, that the approach to housing allocation would be as set out in Appendix 7. Mr Barrett confirmed that he had exchanged correspondence with Councillor Cowan to this effect.

Mr Barrett advised that there was no list of residents who would be prioritised for an early transfer to the new properties, merely an informal record of the views of some residents as expressed to the Project Officer. The timing of transfers would be dependent on phasing and the needs of individual tenants in accordance with the Local Lettings Plan.

In response to further questions the Cabinet was informed that the involvement of a third party, in this case PWC, to examine Capco's asset base was standard practice. As due diligence only ever provided a snapshot, the request of updated financial information by PWC was also customary. Members were informed of the safeguards and guarantees that were in place in the event that Capco was wound up and it was re-emphasised that no land transfer would take place before the construction and handover of the new homes. Given the scale of the transaction the Council had retained a large firm with experience of large scale transactions. There were a limited number of firms who advised in relation to these large scale transactions. It was therefore not surprising that PWC also had a relationship with Capco as auditor but internal arrangements were in place to ensure confidentiality and probity.

Following a five minute adjournment of the meeting by the Chairman under Council Procedure Rule 21(e) at 8.25pm to allow for the restoration of order in the public gallery, the meeting resumed with further questions from Members.

In answer to questions from Councillor Lisa Homan concerning the scope and evaluation of the consultation process and the rent guarantees to tenants, Mr Barrett commented that although the secure Council tenants had a specific statutory status, the assessment of the consultation had taken all responses into account. He agreed to provide Councillor Homan with details of the total expenditure on the estates over the previous 10 years, including the Decent Homes programme. Residents would remain tenants of the Council paying Council social rents rather than 'affordable rents' that could be up to 80% of market value.

Councillor P.J. Murphy enquired about the financial benefit of the scheme. It was confirmed that the estimated £99m annual benefit to the local economy on completion of the comprehensive redevelopment excluded the Council's anticipated cash receipts of between £34-88m after costs. The Exclusivity Agreement with Capco had been extended to the end of January 2013 as agreement on final terms had been thought to be close. Capco's phased payments were due to be uprated in accordance with RPI rather than land

values because the former was considered to be more certain. Capco would be liable to pay compensation if payments were delayed.

Mr Barrett was asked how the needs of those tenants who were currently overcrowded would be safeguarded. He confirmed that closer to the relevant phasings a Tenant Needs Analysis would be undertaken to ensure that individuals were allocated appropriate homes. Whilst there would always be exceptions in the case of very large families (for example, more than six children), the vast majority of the households on the estates that were overcrowded would be provided with more appropriate housing. An initial desktop exercise confirmed that there was headroom to provide sufficient built accommodation.

Councillors Victoria Brocklebank-Fowler and Helen Binmore enquired about the meaning of the CLSA and the consultation process respectively. It was confirmed that the transfer of land to Capco was conditional upon the company undertaking a variety of things to the Council's satisfaction, most notably the construction of replacement homes. It was guaranteed that no land sale would take place if the homes were not provided. Mr Barrett informed Members that the consultation process had been designed to ensure as wide a range of views were heard as possible. No tenant ballot had been undertaken because it was only required in instances where there was to be a stock transfer to a new landlord.

Councillor Mark Loveday sought clarification on whether the scheme benefits indicated at the meeting of Cabinet in April remained applicable. Mr Barrett was able to confirm that they were, reaffirming the figures given earlier in the meeting in respect of the number of homes to be provided by the scheme, the guarantees that residents would remain tenants of the Council, and the park, play areas and school to be provided. Mr Barrett also highlighted the economic benefits, including the £99m pa of additional expenditure in the local economy and the number of temporary and permanent jobs. It was expected that some 2,650 of those jobs would be for local residents, mostly those living within Hammersmith & Fulham.

Similarly, Mr Barrett was able to reconfirm for Councillor Andrew Johnson that tenants would continue to pay Council rents, and leaseholders would benefit from a minimum 5 year cap on service charges. Those Council tenants who preferred to pursue home ownership options would be supported in doing so. As the amount of replacement housing would be more than required in each phase it would be possible to prioritise those in housing need and those residents who wished to remain in the area through the Local Lettings Plan.

Having considered the report and accompanying papers before it, and the discussion during the course of the meeting, the Cabinet

RESOLVED:

1. That the Cabinet note and consider the Analysis of Consultation Responses (Appendix 5) regarding the recent statutory and wider consultation.

2. That the Cabinet note and consider the Equalities Impact Assessment (Appendix 12) prepared in respect of the proposed decisions which are the subject of this report.
3. In light of the Analysis of Consultation Responses and the Equalities Impact Assessment and having regard to the regeneration benefits summarised in this report, that the Cabinet should agree that it is willing to enter into a Conditional Land Sale Agreement (CLSA) and relevant associated documents as set out in paragraph 6.12 of this report, with EC Properties LP, part of the Capital and Counties Properties plc group of companies (referred to as Capco within the report) to include the West Kensington and Gibbs Green Estates (the Estates) in the proposed comprehensive redevelopment scheme.
4. That approval is given to include the Tenant and Leaseholder/Freeholder Assurances within the agreed CLSA.
5. That the Council approve the disposal to EC Properties LP (Capco) of land formerly occupied by Gibbs Green School within the overall CLSA on terms set out in this report, with the disposal proceeds to be applied to a replacement educational facility.
6. To approve the disposal to EC Properties LP (Capco) of land at 11 Farm Lane within the overall CLSA, as set out in the report.
7. To authorise the Executive Director of Housing and Regeneration to prepare an application for the Secretary of State's consent for the necessary disposal of Housing Revenue Account (HRA) land, for submission to Full Council and appoint supporting advisors necessary to help secure such consent.
8. To give delegated authority to the Executive Director of Housing and Regeneration in consultation with the Executive Director of Finance and Corporate Governance to purchase leasehold and freehold interests situated on the land (Estates), included within the CLSA, by agreement up to a cumulative value of £15m funded from the Decent Neighbourhoods Fund and appoint advisors to support these acquisitions.
9. To approve the 4 year budget as set out in section 9 funded from the Decent Neighbourhoods Fund and provide the Executive Director of Housing and Regeneration with delegated approval to finalise the allocation of resources within this budget envelope.
10. That capital receipts arising from the CLSA are used to cover costs of disposal and those incurred in delivering the project and that the portion received in respect of land and properties currently held within the Housing Revenue Account is reinvested (so far as lawfully possible) in housing and regeneration, including:
 - To fund capital expenditure on area-based improvements that help the Council achieve its corporate objectives;
 - To develop or acquire new affordable housing to meet identified housing needs, including where appropriate by the extension of properties;

- To fund tenant incentive initiatives (qualifying as capital expenditure) that free up council housing which is in demand for those in housing need (e.g. for larger family accommodation);
- Subject to the Council ensuring that its statutory housing responsibilities to meet housing needs are performed, to use receipts to reduce HRA or General Fund debt where this is identified as a priority, and where repayment of the debt is of net financial benefit to the Council's HRA or General Fund;
- To invest in capital expenditure on planned maintenance of the Council's current housing stock until this is fully funded by the HRA revenue account.

11. To authorise the Executive Director of Housing and Regeneration to consult on the draft Earl's Court Local Lettings Plan and Re-housing policy.

Reason for decision:

As set out in the report.

Alternative options considered and rejected:

As outlined in the report.

Record of any conflict of interest:

None.

Note of dispensation in respect of any declared conflict of interest:

None.

39. MAYOR OF LONDON'S CYCLE HIRE SCHEME

RESOLVED:

1. That authority be delegated to the Cabinet Member for Transport and Technical Services, in conjunction with the Executive Director for Transport and Technical Services, to enter into an agreement with Transport for London to extend the Mayor of London's Cycle Hire Scheme into the borough.
2. That the Council makes a contribution of up to £2 million to the extension, to be recovered by developer contributions, as detailed in Section 4 of the agenda report.

Reason for decision:

As set out in the report.

Alternative options considered and rejected:

As outlined in the report.

Record of any conflict of interest:

None.

Note of dispensation in respect of any declared conflict of interest:

None.

40. STRATEGY FOR THE PROVISION OF CARER SERVICES ACROSS THE CITY OF WESTMINSTER, THE LONDON BOROUGH OF HAMMERSMITH AND FULHAM, AND THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA

RESOLVED:

1. That approval be given to the re-let strategy for the contract for provision of carer services across the three boroughs as set out in this report.
2. That the tender be comprised of the following lots:
 - Lot 1 – A Carers’ Hub - Advice, Information, Advocacy and Support Service
 - Lot 2 – A Young Carers’ Support Service
 - Lot 3 - A Home Support and Short Breaks Service for Adults, and Children with Disabilities
3. That Westminster City Council (WCC) lead the procurement of a new Tri-Borough Carers’ Services Contract and award the contract, which will come into effect in October 2012 in replacement of the current carers’ services.

Reason for decision:

As set out in the report.

Alternative options considered and rejected:

As outlined in the report.

Record of any conflict of interest:

None.

Note of dispensation in respect of any declared conflict of interest:

None.

41. FORWARD PLAN OF KEY DECISIONS

The Forward Plan was noted.

42. SUMMARY OF OPEN DECISIONS TAKEN BY THE LEADER AND CABINET MEMBERS, AND REPORTED TO CABINET FOR INFORMATION

The summary was noted.

43. SUMMARY OF URGENT DECISIONS TAKEN BY THE LEADER, REPORTED TO THE CABINET FOR INFORMATION

The summary was noted.

44. EXCLUSION OF PRESS AND PUBLIC

RESOLVED:

That under Section 100A (4) of the Local Government Act 1972, the public and press be excluded from the meeting during consideration of the remaining items of business on the grounds that they contain information relating to the financial or business affairs of a person (including the authority)] as defined in paragraph 3 of Schedule 12A of the Act, and that the public interest in maintaining the exemption currently outweighs the public interest in disclosing the information.

[The following is a public summary of the exempt information under S.100C (2) of the Local Government Act 1972. Exempt minutes exist as a separate document.]

45. EARLS COURT DEVELOPMENT: EXEMPT ASPECTS (E)

RESOLVED:

That the recommendations contained within the exempt report be approved.

Reason for decision:

As set out in the report.

Alternative options considered and rejected:

As outlined in the report.

Record of any conflict of interest:

None.

Note of dispensation in respect of any declared conflict of interest:

None.

46. PROJECT: RELEASE OF RESTRICTIVE COVENANT AT 70-72 HAMMERSMITH BRIDGE ROAD (E)

RESOLVED:

That the recommendations contained within the exempt report be approved.

Reason for decision:

As set out in the report.

Alternative options considered and rejected:

As outlined in the report.

Record of any conflict of interest:

None.

Note of dispensation in respect of any declared conflict of interest:

None.

47. STRATEGY REPORT FOR THE PROVISION OF CARER SERVICES ACROSS THE CITY OF WESTMINSTER, THE LONDON BOROUGH OF HAMMERSMITH AND FULHAM AND THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA : EXEMPT ASPECTS (E)

RESOLVED:

That the report be noted.

Reason for decision:

As set out in the report.

Alternative options considered and rejected:

As outlined in the report.

Record of any conflict of interest:

None.

Note of dispensation in respect of any declared conflict of interest:

None.

48. SUMMARY OF EXEMPT DECISIONS TAKEN BY THE LEADER AND CABINET MEMBERS, AND REPORTED TO CABINET FOR INFORMATION (E)

The summary was noted.

49. SUMMARY OF EXEMPT URGENT DECISIONS TAKEN BY THE LEADER, AND REPORTED TO THE CABINET FOR INFORMATION (E)

The summary was noted.

Meeting started: 7.00 pm
Meeting ended: 9.20 pm

Chairman

Minutes are subject to confirmation at the next meeting as a correct record of the proceedings and any amendments arising will be recorded in the minutes of that subsequent meeting.