


<p><b>London Borough of Hammersmith &amp; Fulham</b></p> <p><b>AUDIT PENSIONS AND STANDARDS COMMITTEE</b></p> <p><b>14 DECEMBER 2015</b></p>	
<p><b>RIVERSIDE STUDIOS AND QUEENS WHARF</b></p>	
<p><b>Report of the Director for Planning and Growth</b></p>	
<p><b>Open Report</b></p>	
<p><b>Classification:</b> For Review and Comment</p>	
<p><b>Key Decision:</b> No</p>	
<p><b>Wards Affected:</b> Hammersmith Broadway</p>	
<p><b>Accountable Director:</b> Juliemma McLoughlin, Director of Planning and Growth</p>	
<p><b>Report Author:</b> Matt Butler, Team Leader of Planning Regeneration</p>	<p><b>Contact Details:</b> Tel: 020 8753 3493 E-mail: <a href="mailto:matt.butler@lbhf.gov.uk">matt.butler@lbhf.gov.uk</a></p>

## 1. EXECUTIVE SUMMARY

- 1.1. Riverside Trust has advised the Council that there is a considerable funding shortage in re-providing the Riverside Studios facility in full as agreed when current redevelopment is completed and that they are seeking a loan from financial institutions so they can deliver on this commitment.
- 1.2. This report sets out the background to the planning permission granted in January 2014. It seeks a steer from Members to ensure that the expected public planning gain (community benefits) from the development is achieved in full, namely the community arts facility funded by the proceeds from the enabling residential development as enshrined in the planning permission.
- 1.3. The reprovision of a community arts facilities including a new theatre and cinema results from earlier Members' agreement to forego the provision of up to forty per cent, on-site affordable housing and to instead accept an off-site commuted payment of £408,000 on the basis that the public money resulting from planning gain would be used to fund the community arts re-provision in full instead of affordable housing and other needs.

## **2. RECOMMENDATIONS**

The Audit, Pensions and Standards Committee:

- (a) review the basis of the assurances given to the 19<sup>th</sup> December 2013 Planning Applications Committee by the Riverside Trust.
- (b) review the forgone contribution for affordable housing, (estimated as having a value of £25,000,000.00 in December 2013) waived by LBHF in return for assurances on funding a fully functioning community arts facility that including a new theatre and new cinema.
- (c) review the legal agreements entered into.
- (d) review whether the assurances have or are likely to be met within the necessary time scale.
- (e) review whether this scheme represented best value for money for the residents of the London Borough of Hammersmith and Fulham,
- (f) advise on what further actions can be taken to monitor adherence to the legal agreement and where appropriate ensure enforcement action should a breach occur.

## **3. REASONS FOR DECISION**

- 3.1. The Council is entitled to confirm that the public monies resulting from the planning gain it made available to the Riverside Studios via the planning agreement, are being used to deliver the community arts facility in full.

## **4. INTRODUCTION AND BACKGROUND**

- 4.1. Planning permission was granted on 22<sup>nd</sup> January 2014 for the redevelopment of the Queens Wharf and Riverside Studios site. The permission comprised the erection of a six to eight storey building providing 65 residential units and 8,633 sqm of commercial floor space for TV studios, theatre, cinema and other ancillary uses (offices, cafe, restaurant and bar) plus a new riverside walk. The permission was accompanied by a Section 106 legal agreement (S106) which requires Mount Anvil to pay a total of £3,200,000 to the council towards infrastructure and off-site affordable housing.
- 4.2. Prior to this, in August 2013, a Leader's Urgent report was approved for the sale of the council's freehold interest of the Riverside Studios site to the developer, Mount Anvil. The sale has now completed.
- 4.3. The council's freehold was subject to a 99-year lease granted in 1984 to Riverside Studios at a peppercorn rent. The council appointed an external property advisor to negotiate with Mount Anvil the value of its property interest and take into account the marriage value of the overall scheme. The negotiations were concluded with Mount Anvil agreeing to pay the council a disposal price of £3,300,000. The disposal price was subject to the granting of planning

permission on the assumption that there would also be a S106 agreement (which would cost the developer £3,200,000).

- 4.4. In addition, there was an overage clause within the land disposal document outlining if the proposed flats sell for higher prices than defined criteria within the disposal contract. The council also secures additional payment if the Riverside lease is surrendered or forfeited or a new planning application secures additional residential floorspace.

## **5. PROPOSALS AND ISSUES**

- 5.1 In 2013 when assessing the planning application for the redevelopment of the sites, the council established that a financial contribution of £2,792,000 would be required towards social and physical infrastructure to mitigate the potential impact of the development. This was secured within the S106 legal agreement attached to the permission. The S106 also secured £408,000 as a commuted payment towards off site affordable housing. The affordable housing contribution was negotiated as the maximum reasonable level the proposal could viably provide.
- 5.2 The scope for the council to negotiate more affordable housing was significantly limited by the cost to the scheme of the re-provision of the modernised and enlarged Riverside Studios.
- 5.3 Mount Anvil's viability appraisal attributed a significant cost to the re-provision of the Riverside Studios with no commercial revenue return as they would be transferred at nil cost to the Riverside Trust. Therefore, the proposed residential would need to subsidise this cost to maintain a viable scheme. This approach had a major impact on the scheme's viability and severely restricted the ability to achieve affordable housing, resulting in the nominal figure £408,000 for off-site provision.
- 5.4 Importantly, council officers estimate that based on cost and revenue figures at the time, applying a commercial revenue from an alternative arts and leisure facility on the site, would have supported a viable scheme providing 40% affordable housing on site (60% affordable rent and 40% intermediate). Or alternatively, a commuted sum payment in the region of £25,000,000 for off-site provision (potentially providing up to 122 social rent homes).
- 5.5 Mount Anvil's planning application was in detail and the approved drawings included three new studios and a cinema. Mount Anvil and Riverside Trust also made a number of written and verbal commitments that the Riverside Studios would be moving back into the premises and this was reflected in the planning conditions and accompanying S106. This was also referenced in the Planning Application Committee report (the relevant section being paras. 3.12 to 3.19).
- 5.6 The resulting planning permission is explicit that the redevelopment includes recording studios, theatre and cinema. Schedule 2 of the S106 also requires Mount Anvil to pay £7,000,000 to the Riverside Trust to facilitate fitting out of the Riverside Studios to provide:

*“...a mixed arts venue (including performance, theatre and cinema) in accordance with its lease of such premises and to enable such premises to be made accessible to members of the public”.*

- 5.7 Following an earlier objection from the Theatre Trust (a statutory consultee), Riverside Studios wrote to the Theatre Trust prior to Planning Committee on 19<sup>th</sup> December 2013 advising that the facility needed to be saved and would otherwise close. This followed the same verbal advice given to the council. Riverside Trust explained in writing of the appropriateness of the current Mount Anvil plans, stating in a letter to the Theatre Trust:

*“Our cinema, much loved by the public, especially for its international seasons, will have two screens, one a replica of the current space and a new 60 seater. It all comes with a 200-year lease that allows us to plan sensibly for a coherent future, one which will allow us to sustain ourselves with a better income model, whilst also planning to maintain our arts provision.”*

- 5.8 Mount Anvil’s planning consultancy firm also wrote to the Theatre Trust on 10<sup>th</sup> December 2013 giving assurances that had already been provided to the council. The consultants explained that Mount Anvil is providing Riverside Trust with the new premises in a shell and core state with a substantial contribution to facilitate the fit out of their premises, stating in a letter:

*“The payment from the developer is sufficient to get the arts facility open to the public. The developer and Riverside Trust have worked together to ensure that this is the case.”*

- 5.9 The payment referred to in the letter for the fit out of the new Riverside Studios amounts to £7,000,000. The Theatre Trust wrote to the council on 11<sup>th</sup> December 2013 referencing the consultant’s letter and withdrawing its objection as a result of the assurances provided.

- 5.10 Schedule 2 of S106 secures Mount Anvil’s contribution of £7,000,000 to the Riverside Trust to facilitate fitting out of the ‘mixed arts venue’ to enable it *“to be made accessible to members of the public”*. This payment must be made within 18 months of Mount Anvil acquiring the council’s freehold interest and the developer must not permit occupation of any of the proposed residential units until the money has been paid.

- 5.11 It is therefore both disappointing and unacceptable that the Council has been informed that a fund shortfall exists for the full and complete re-provision of the Riverside Studios. This is particularly the case given the written assurances and legal commitments from both the Riverside Trust and Mount Anvil that the approved scheme would deliver an enhanced and fully operational Riverside Studios. A facility that should provide the full range of arts and entertainment functions to the public and formed a vital component of the scheme and, importantly, weighed heavily in the council’s decision to forego significant levels of much needed affordable housing in the Borough.

## **6. OPTIONS AND ANALYSIS OF OPTIONS**

6.1 N/A

## **7. CONSULTATION**

7.1 Not applicable as the report summarises a planning permission and land sale that have already been undertaken.

## **8. EQUALITY IMPLICATIONS**

8.1 Equality Impact Assessment is not required to accompany this report because the officer planning report to committee was accompanied by Equality Impact Assessments. However, the failure of the scheme to provide a new cinema would detrimentally impact on the public's access to local and fully accessible cinema facilities

## **9. LEGAL IMPLICATIONS**

9.1 There are planning obligations attached to the planning permission which the council could seek to enforce against in circumstances where they consider a breach has occurred.

9.2 The developer, however, will also have recourse to appeal in the event of any enforcement action and may seek to discharge or vary the planning obligations.

9.3 Report reviewed by Adesuwa Omoregie Bi-borough Lawyer (Planning, Highways and Licensing) - TEL: 020 8753 2297

## **10. FINANCIAL AND RESOURCES IMPLICATIONS**

10.1 The financial implications are set out in the body of the report.

10.2 Report reviewed by Mark Jones, Director of Finance and Resources - TEL: 020 8753 6700.

## **11. IMPLICATIONS FOR BUSINESS**

11.1 A partly implemented scheme will hinder the opportunities for job creation and economic regeneration including:

(a) Arts and culture supply chain negatively impacted by possible loss of only borough arts film theatre.

(b) Diminished 'cultural quarter' with decreased visitor appeal.

(c) Drop in visitor numbers to development and river reduces consumer and visitor spend at the studios and with local businesses; keeping money and jobs in the borough.

(d) Weakened location magnet for further business investment and growth in this area.

**12. RISK MANAGEMENT**

12.1 N/A

**13. PROCUREMENT AND IT STRATEGY IMPLICATIONS**

13.1 N/A

**LOCAL GOVERNMENT ACT 2000  
LIST OF BACKGROUND PAPERS USED IN PREPARING THIS REPORT**

None.