


<p style="text-align: center;"><b>London Borough of Hammersmith &amp; Fulham</b></p> <p style="text-align: center;"><b>AUDIT PENSIONS AND STANDARDS COMMITTEE</b></p> <p style="text-align: center;"><b>15 JUNE 2016</b></p>	
<p><b>RIVERSIDE STUDIOS AND QUEENS WHARF</b></p>	
<p><b>Report of the Director for Planning &amp; Development</b></p>	
<p><b>Open Report</b></p>	
<p><b>Classification:</b> For review and comment  <b>Key Decision:</b> No</p>	
<p><b>Wards Affected:</b> Hammersmith Broadway</p>	
<p><b>Accountable Director:</b> N/A</p>	
<p><b>Report Author:</b>  Matt Butler, Head of Policy &amp; Spatial Planning</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. This is a follow up report to one presented to the Audit, Pensions and Standards Committee on 14<sup>th</sup> December 2016 in relation to the planning permission for the redevelopment of the Riverside Studios and Queens Wharf.
- 1.2. The previous report advised Members of a funding shortfall for the full reprovision of Riverside Studios. This shortfall was despite written 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 reprovided Riverside Studios.
- 1.3. The resolutions that came from the previous committee are now addressed in this report, these are as follows:
  1. The applicant's financial viability appraisal report and the council's assessment of the report at the planning application stage are attached at Appendix A.
  2. A schedule of the current position in relation to the planning and Section 106 obligations is found at Appendix B.
  3. Written correspondence is attached at Appendix C from Riverside Trust and Riverside Studios seeking to clarify the funding position in respect of the Riverside Studios and the Section 106 monies. The correspondence confirms

that there is a need for between £10-20 million in loan financing confirming that the £7 million Section 106 monies will not be sufficient to deliver the full extent of their community arts objectives and core operation contrary to Riverside Studios assurances at the planning application stage.

4. The Chair of the Riverside Trust has been invited to attend the committee meeting

## **2. RECOMMENDATIONS**

That the Audit, Pensions and Standards Committee:

1. Reviews the financial viability of this scheme;
2. Considers the recent correspondence from the Riverside Trust and Riverside Studios and whether what is stated is contrary to what was committed to at the planning application stage;
3. Advises the council on what further actions to take.

## **3. REASONS FOR DECISION**

- 3.1. The Council has an obligation to ensure that the public monies it made available to the Riverside Trust via the planning agreement is being used to deliver the community arts facility it was set aside to do.

## **4. INTRODUCTION AND BACKGROUND**

- 4.1. This report follows a previous one presented to this committee on 14<sup>th</sup> December 2016. The previous report advised Members that there was a funding shortfall for the re-provision of the Riverside Studios facility that formed part of a planning permission granted on 22<sup>nd</sup> January 2014. The planning permission was for the redevelopment of the Queens Wharf and Riverside Studios providing 65 residential units and 8,633 sqm of commercial floor space for TV studios, theatre, cinema and other ancillary uses.
- 4.2. In August 2013, prior to the planning permission, the council resolved to sell its freehold interest of the Riverside Studios to the developer, Mount Anvil with the sale now complete.
- 4.3. Riverside Studios and Mount Anvil made assurances during the planning assessment stage that the redevelopment would fund the re-provided Riverside Studio facilities. These commitments are referenced in letters from Mount Anvil's planning consultant (Rolfe Judd) and William Burdett-Coutts on behalf of Riverside Studios. These correspondence are attached at Appendix D.
- 4.4. Members, having been advised of these commitments and the subsequent funding shortfall, resolved that officers report back to committee with further information. The full resolution is as follows:

1. That the committee be presented with the viability assessment and the Council's appraisal of that document avoiding disclosure of information that may be considered commercially sensitive.
2. That the committee be presented with a schedule of the planning and Section 106 obligations stating which have been complied with and which have not, with detail on any that may have been breached, including options for enforcement.
3. That officers seek confirmation and details on why the £7m capped figure may not be sufficient to fully fit out the new Riverside Studios space.
4. That the Chair of the Riverside Trust be invited to attend the meeting.

## **5. PROPOSALS AND ISSUES**

### Resolution 1

- 5.1 In relation to resolution 1 and the viability assessment, at the time of the planning application Mount Anvil submitted a financial viability appraisal (FVA) to support the level of Section 106 contributions and commuted payments for off-site affordable. The FVA was assessed by Strutt & Parker on behalf of the council who concluded that £3,200,000 was the maximum contribution the scheme could viably provide.
- 5.2 The viability appraisal clearly demonstrated that the scope for the council to negotiate more affordable housing was limited by the cost to the scheme of the re-provided Riverside Studios. The new facility would be transferred at nil cost to the Riverside Trust resulting in the nominal figure £408,000 for off-site affordable housing.
- 5.3 Importantly, it was reported previously to this committee that based on cost and revenue figures at the time, an alternative arts and leisure facility which contributed a revenue stream to the scheme's viability, could have generated sufficient return to fund 40% affordable housing on site. Or alternatively, a commuted sum payment of approximately £25,000,000 for off-site provision which could potentially provide up to 122 social rent homes off site.
- 5.4 At committee in December, Members requested a copy of the financial viability assessment to be made available and this is attached for Members attention at Appendix A.

### Resolution 2

- 5.5 Turning to Resolution 2, the Riverside Studios and Queens Wharf planning permission was granted on 22<sup>nd</sup> January 2014 and was subject to a section 106 legal agreement and planning conditions.
- 5.6 Committee Members requested a schedule of the conditions and Section 106 obligations. Appendix B to this report presents those schedules.

## Planning conditions

5.7 A total of 71 planning conditions were attached to the permission and Table 1 below sets out the triggers for the submission all the conditions and the condition tracker in Appendix B sets out the details of each condition.

5.8 Table 1: Condition triggers

	Total	Submitted	Discharged	Outstanding
Prior to demolition	3	3	3	0
Prior to commencement of development	26	26	26	0
On completion of bulk excavation works	2	2	0	2
Prior to commencement/installation of relevant part	11	10	8	3
Within 6 months of commencement	2	2	0	2
Prior to first occupation	3	2	1	2
Compliance	24	N/A	N/A	N/A

5.9 There are currently six conditions pending determination which are due to be determined within the next two-three weeks and three conditions left to submit which all have 'prior to commencement of the relevant part' of 'prior to occupation' triggers. At the time of this report there do not appear to any breaches of planning permission in relation to planning conditions.

## S106 Obligations

5.10 The financial section 106 obligations are attached to this report in Appendix B. The table shows that all payments due on commencement have been paid and that the outstanding payments are due on occupation. The estimated occupation date for the first residential phase is April 2017.

5.11 The non-financial section 106 obligations are attached to this report in Appendix B. The table shows that section 106 obligations which require discharge prior to or within a certain period of commencement have been discharged. The Travel Plan and Servicing and Delivery Plan are required prior to the occupation of the development and Mount Anvil have confirmed that they are aiming to submit the plans as soon as possible.

## Resolution 3

5.12 In respect of Resolution 3, since the December committee, officers have requested on numerous occasions confirmation and details as to why the section 106 £7 million allocated for fitting out the new Riverside Studios may not be sufficient. Riverside Trust initially raised the problem of the funding gap when they requested a meeting with the council shortly after planning permission had been granted.

- 5.13 Members and officers were extremely disappointed to hear of the funding gap especially given the written assurances provided at the application stage (Appendix D) and the flexibility exercised by the council in forgoing a significant number of affordable homes to allow for the re-provision of Riverside Studios.
- 5.14 Sir Christopher Powell (Chair, Riverside Trust) and William Burdett-Coutts (Artistic Director, Riverside Studios) have now written to the council on this matter. Chris Powell's letter is dated 10<sup>th</sup> March 2016 and William Burdett-Coutts letter 25<sup>th</sup> May 2016, both are attached in Appendix C.
- 5.15 Chris Powell's letter on behalf of Riverside Trust letter states that their main objective is to deliver a community arts facility but that they were not party to the agreements that the council entered into with Mount Anvil (4<sup>th</sup> and 5<sup>th</sup> paragraphs). The letter describes the new lease arrangements with Mount Anvil and cash contribution to enable them to re-open in 2018 (Point 1).
- 5.16 There is acknowledgement in the letter, however, that the Section 106 cash contribution will not be sufficient:
- "...in itself will not be sufficient to deliver the full extent of our community arts objectives..."* (Chris Powell, Point 1)
- 5.17 Chris Powell also goes on to state that the Riverside Trust were not party to the assurances given at the planning application stage (Point 1). The letter then describes the future vision of the Riverside Studios as a community arts centre and to develop a world class National Digital Hub explaining the financial implications of this:
- "This will require significant investment in fit out of the building and in digital technology. Our business plan requires us to obtain a bank facility to deliver our core operation."* (Point 2)
- "Our business plan has always been structured on the requirement of bank debt and fundraising and shows this requirements of between £10-20m."* (Point 3)
- 5.18 Chris Powell then suggests that the previous officer report was misleading in suggesting public funds from the council had supported the Riverside Trust through the planning application (Point 4). Finally, he reiterates that the Trust were not involved in the discussions between the council and Mount Anvil (Point 5).
- 5.19 The Riverside Studios letter from William Burdett-Coutts attempts to address in turn the four resolutions from the previous committee on 14<sup>th</sup> December. Mr Burdett-Coutts explains that the viability assessment is the responsibility of Mount Anvil; that the terms of the Section 106 are being met or currently resolved; and that it had:
- "always been our expectation that the amount we received from Mount Anvil would only meet the initial requirement and that bank debt and funding would be required"* (Appendix C)

- 5.20 The letter cross references Chris Powell's letter, and finally, he confirms that the Chair of the Riverside Trust intends to attend the committee meeting on 15<sup>th</sup> June.
- 5.21 It would appear, therefore, that in trying to address the fundamental question of why the Section 106, £7 million is not sufficient to fully re-provide the Riverside Studios facility, Riverside Trust and Riverside Studios claim that this was always the expectation.
- 5.22 Officers acknowledge that during the planning application assessment, Riverside Studios had advised of the likely need for additional funding for some elements of fitting out. However, they were always 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. This is detailed in correspondence found in Appendix D.
- 5.23 The Riverside Trust letter from Chris Powell now references a very large funding requirement of between £10-20 million to enable them to provide their "core operation". It is understood that this is required in part for the cinema element.
- 5.24 Riverside Trust and Riverside Studios correspondence, therefore, fail to provide any assurance of the full re-provision of the facility and in fact add more doubt with Chris Powell's letter advising that a bank facility was required to:
- "deliver our core operation"* (Chris Powell letter, Point 2)
- 5.25 This is far removed from the written assurances provided by William Burdett-Coutts at the planning application stage (Appendix D).
- 5.26 The Riverside Studios are being provided with much larger studio spaces than before, with new and enhanced restaurant, cafes, bar and office facilities. They also reference developing a world class National Digital Hub which will require significant investment. Officers are concerned, therefore, that investment in these areas may be at the expense of first delivering their "core operation" which they clearly committed to at the planning application stage.
- 5.27 It is also misleading that the Riverside Trust now claim that they were not party to the agreements and discussions with the council and Mount Anvil at the planning application stage. Also, that no public funds have effectively been given to Riverside Trust.
- 5.28 Riverside Trust are in fact signatories to the S106 legal agreement accompanying the planning application along with Mount Anvil and Dominion Developments Ltd. Officers also met with William Burdett-Coutts and Guy Hornsby of Riverside Studios to discuss the planning application where they described to officers how a modern and enlarged facility would be re-provided as part of the planning application. At no stage was any doubt expressed about the "core operations" being delivered.
- 5.29 Chris Powell, in his letter acknowledges that Riverside Trust initiated the relationship with Mount Anvil that led to their working with A2 Dominion and the council (page 3, 2<sup>nd</sup> paragraph). Officers would expect Riverside Trust to have

been well aware of the key elements of the financial arrangements between the parties and the millions of pounds of public funds in the form of planning gain that was effectively being substituted as a subsidy to Riverside Studios to enable the funding of their new and enlarged facility.

- 5.30 In summary, therefore, it is again extremely disappointing that Riverside Trust have not been able to provide any reasonable explanation as to why the funding through the redevelopment scheme will not, 'deliver the full extent of their community arts objectives' and that a bank facility will be required to, 'deliver their core operation'.
- 5.31 Riverside Trust has failed to provide any comfort to the council that a re-provided Riverside Studios will be financed through the planning permission and delivered in a timely fashion as was assured at the planning application stage.

## **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 or other community facilities would detrimentally impact on the public's access to local and fully accessible cinema and community 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, Lawyer (Planning, Highways and Licensing). 020 8753 2297

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

- 10.1 The financial implications for the scheme are set out in the body of the report. There are no direct cost or income implications to the Council arising from the recommendations in this report.

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

## **11. IMPLICATIONS FOR BUSINESS**

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

- i. Arts and culture supply chain negatively impacted by possible loss of only borough arts film theatre.
- ii. Diminished 'cultural quarter' with decreased visitor appeal.
- iii. 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.
- iv. Weakened location magnet for further business investment and growth in this area.
- v. Potential loss of reputation as the Borough that supports the Arts.

## **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.