

MINUTES OF THE OVERVIEW AND SCRUTINY COMMITTEE

Monday, 25 January 2016 at 7.30 pm

PRESENT: Councillors Alan Hall (Chair), Gareth Siddorn (Vice-Chair), Obajimi Adefiranye, Abdeslam Amrani, Chris Barnham, Paul Bell, Peter Bernards, Andre Bourne, Suzannah Clarke, Liam Curran, Brenda Dacres, Amanda De Ryk, Colin Elliott, Carl Handley, Mark Ingleby, Stella Jeffrey, Liz Johnston-Franklin, Helen Klier, Jim Mallory, David Michael, Hilary Moore, Pauline Morrison, John Muldoon, Olurotimi Ogunbadewa, Crada Onuegbu, Jacq Paschoud, John Paschoud, Pat Raven, Joan Reid, Jonathan Slater, Eva Stamirowski, Alan Till, Paul Upex, James-J Walsh and Susan Wise

APOLOGIES: Councillors David Britton, Bill Brown, John Coughlin, Maja Hilton, Simon Hooks, Alicia Kennedy, Roy Kennedy and Luke Sorba

ALSO PRESENT: David Austin (Head of Corporate Resources), Charlotte Dale (Interim Overview and Scrutiny Manager), Mike Kiely (Interim Head of Planning), Anthony Lee (BNP Paribas), Barrie Neal (Head of Corporate Policy and Governance), Georgina Nunney (Principal Lawyer) and Emma Talbot (Planning Manager)

1. Minutes of the meeting held on 26 October 2015

1.1 **RESOLVED:** That the minutes of the meeting held on 26 October 2015 be agreed as an accurate record of the meeting.

2. Declarations of Interest

2.1 The following non-prejudicial declarations of interest were declared:

- Councillors John and Jacq Paschoud - Family member in receipt of a package of adult social care
- Councillor John Muldoon - Lead Governor of South London and Maudsley NHS Foundation Trust and Chair of the London Scrutiny Network
- Councillor Alan Hall - Governor at the South London and Maudsley NHS Foundation Trust
- Councillor Paul Bell - Member of the King's College Hospital NHS Foundation Trust
- Councillor Susan Wise - Member of the King's College Hospital NHS Foundation Trust and the South London and Maudsley NHS Foundation Trust
- Councillor Pauline Morrison - Borough Member of the London Fire and Emergency Planning Authority.

3. Mayoral Response: The Care Act

3.1 **RESOLVED:** That the response be noted.

4. Response from the Mayor on the recommendations arising from the Public Spending in Lewisham Working Group

4.1 **RESOLVED:** That the response be noted.

5. Response from participating organisations on the recommendations arising from the Public Spending in Lewisham Working Group

5.1 It was noted that a recent motion agreed by Full Council on 20 January 2016 asked the Mayor to respond formally to the current London Fire and Emergency Planning Authority budget consultation, which was proposing the permanent removal of 13 fire appliances across London, including one from Forest Hill fire station. The Mayor was asked to support 'Option A' which includes retaining the 13 appliances. The Committee agreed to formally endorse this motion.

5.2 **RESOLVED:** That the response be noted and the Mayor be asked to respond formally to the London Fire and Emergency Planning Authority budget consultation, supporting Option A.

6. Key Planning issues (the Housing and Planning Bill and financial viability)

6.1 Mike Kiely, Interim Head of Planning introduced the report providing information on the Housing and Planning Bill, viability, starter homes, custom and self-build options, local plans and the local register. In terms of viability, Mike provided information on a number of recent legal cases pertaining to viability assessments that had helped shape Lewisham's approach. The approach being taken by the Council was to require developers to submit confidential viability information to the Council's independent consultants who will then produce an open report. In terms of the new Housing and Planning Bill, it was clear that until the regulations were published and the detail behind the various proposals known, local authorities could only speculate at the impact of the Bill would have locally.

6.2 In response to questions from Members of the Committee the following points were noted:

- The process for making compulsory purchase orders was open and transparent and very different to the process for negotiating viability assessments.
- Local authorities are required to keep a register of people seeking to acquire land to build or commission their own home and the new Bill proposes that councils will now also be required to grant sufficient suitable development permission of *serviced plots of land* to meet the demand based on this register, as part of an overall drive to reduce planning impediments. In Lewisham most land has easy access to services but in rural areas this requirement might be more problematic.
- Whilst the Bill indicates that the, as yet unpublished, regulations will enable local authorities to charge fees in relation to their duty to provide sufficient suitable development permissions, the regulations could also

specify where no fee is payable. Furthermore the fees might not be set at a level that will cover the actual costs incurred.

- More information on the Bill would be provided to Members at a briefing scheduled for 28 January 2016.
- It was noted that Members would keep the viability issue, and Lewisham's approach to it, under review.

6.3 Anthony Lee, Senior Director, BNP Paribas Real Estate, gave a presentation on viability appraisals and planning decisions, the key points of which were:

- Appraisals were not an exact science and needed to be scrutinised very closely.
- The relevant guidance prioritised the interests of land owners with the ground rules being set by the industry body for surveyors.
- Securing land - generally land owners will only sell their buildings to release the land if they get the market rate or above. If high percentages of affordable housing are enforced this will affect the offer developers can make to land owners, as their profits will be reduced and may result in the land not being released.
- Affordable housing targets – developers must demonstrate on a case by case basis why affordable housing targets cannot be met and it is worth remembering that small tweaks to key figures within viability assessments can have a significant impact. For this reason it is worth rigorously scrutinising estimated sales values and estimated build costs.
- Viability assessments have a shelf life and are out of date as soon as they are produced. Therefore for medium to large schemes it is worth securing a review mechanism either immediately before the build commences, at the end of each phase, or at the end. If the review mechanism is triggered at the end of a development (most likely in the case of medium sized, non-multi-phase developments), this will not result in more affordable housing but could result in a payment in lieu of additional affordable housing.
- Most starter homes in London are likely to be sold near the cap of £450k, thus requiring an annual salary of approximately £90k and a deposit of approximately £75k and thus not that affordable. Moreover the new Bill prioritises this form of affordable housing over other types, meaning that future developments are likely to have much less 'traditional' affordable housing and more of the more expensive starter homes. In addition, after five years the owner will be able to sell the home at the market rate, thus achieving an immediate 25 per cent uplift on their investment and removing an affordable housing unit from the market.

6.4 In response to questions from the Committee, the following points were noted:

- If local authorities tried to impose review mechanisms on small schemes the developer would normally win if the introduction of the review mechanism was challenged.

- Some local authorities (for example Wandsworth, Islington and Lambeth) were trying to set their own ground rules in relation to land values and would only accept figures based on what the land was currently worth (i.e. if the land owner had overpaid for the land this would not be recognised).
- Build costs often worked out less than the estimates due to value engineering on behalf of the developer, whereby the least expensive materials that satisfy minimum requirements are used.
- Local authorities could build their own database of estimated and actual build costs and sales values to help them with future negotiations with developers. Although they are provided with a lot of this data confidentially, it can be anonymised or used confidentially.
- As a consequence of the removal of grant funding for affordable housing in 2010, schemes need a higher percentage of private housing to cross fund affordable housing making it more difficult to achieve the numbers of affordable housing units achieved when grants were in place.
- Should there be a collapse in the market, this might provide an opportunity for registered providers to significantly re-enter the market.
- It was not clear what would happen if the cap on starter homes in the capital was exceeded on a development – if the developer would be required to provide starter homes at the £450k cap even if this means a higher than 20 per cent discount, or if other types of affordable housing could be provided instead.
- Things that might assist in the provision of affordable housing, on the margins, included (a) the imminent increase in stamp duty for second homes and (b) the fact that the Government was exceeding the welfare cap as housing benefit payments were increasing due to the rising cost of private sector renting, meaning that they wanted local authorities to start building.

6.4 Councillor Curran commented that a completely new housing system was required, one which intervened in the market, and that the Council needed to do all it could to lobby and campaign for this to happen and take a more strategic view.

6.5 **RESOLVED:** That a referral be made to Mayor and Cabinet as follows:

1. That the PowerPoint presentation on financial viability given by Anthony Lee (BNP Paribas) be forwarded to Mayor and Cabinet with the request that particular consideration be given to the *key messages* slide and the information on the potential impact of starter homes on other affordable housing products.
2. That the Sustainable Development and Housing Select Committees also be asked to consider this presentation.
3. That, when more detail is available in relation to the proposals contained within the Housing and Planning Bill, it will be important for all three of these meeting bodies to consider it.

7. Referrals to Mayor and Cabinet

7.1 Referrals were made in relation to items 5 and 6 on the agenda.

The meeting ended at 8.45 pm

Chair:

Date:
