

MINUTES OF THE RESOURCES AND PUBLIC REALM SCRUTINY COMMITTEE
Held as an online meeting on Wednesday 23 September 2020 at 6.00 pm

PRESENT: (in remote attendance) Councillor Kansagra (Chair) and Councillors S Choudhary, Johnson, Kabir, Hassan, Long, Mahmood, Miller, Perrin and Shah

Also Present: (in remote attendance) Councillors M Butt (Leader of the Council), McLennan (Deputy Leader), Stephens (Lead Member for Schools, Employment and Skills) & Tatler (Lead Member for Regeneration, Property and Planning and, on behalf of the call-in, Councillors Kennelly, Lloyd, Abdirazak and Chan

1. Apologies for absence and clarification of alternate members

Apologies were received from Councillor Mashari. In the absence of the Chair, the Committee noted that Councillor Kansagra (as Vice-Chair) would chair the meeting.

2. Declarations of interests

In relation to Item 4, Councillors Johnson and Mahmood declared a personal (non-pecuniary) interest as they were members of the Planning Committee and had been present at the meeting on 12 August 2020, during which application 20/0345 1 Morland Gardens, London, NW10 8DY (referenced in the called-in decision) was determined.

Councillor Miller also declared a personal (non-pecuniary) interest as he had been a member of the Cabinet on 14 January 2020 when the decision to approve the Morland Gardens Redevelopment Scheme (references in the called-in decision) was made.

3. Deputations (if any)

None.

4. Call-In of Officer Key Decision - Contract for Refurbishment Works at Stonebridge Annexe, Twybridge Way

The Chair clarified the purpose of the meeting to those in attendance and made reference to the report which outlined the background of the called-in decision made by the Operational Director – Property & Assets on behalf of the Strategic Director – Regeneration & Environment in respect of the award of a contract for enabling works at Stonebridge Annexe, Stonebridge, NW10 0ST.

The Chair then invited Councillor Lloyd to outline the reasons for the call-in, and the alternative action being sought, on behalf of those members that had called the decision in. Comments were made as follows:

- Officers had confirmed that there were no compelling reasons for urgency of the decision, and as such nothing was prejudiced by the call-in. Officers had also confirmed that the works outlined in the called-in decision would not be undertaken should the Morland Gardens planning decision be delayed or not implemented, however that had not been made clear in the report.
- There was concern that the decision would commit the Council to expenditure that may be wasted should the Morland Gardens planning decision be delayed or not implemented, and that there was a high burden of responsibility on the Operational Director – Property & Assets, was shown as the lead officer and also signed off the called-in decision report.
- There was no evidence in the decision report that any consideration had been given to whether Stonebridge Annexe contained bat roosts, or whether the enabling works would disrupt bats in a manner prohibited by legislation.
- Those members who had called the decision in were aware of a new Morland Gardens bat assessment and preliminary Stonebridge Annexe bat assessment. In both cases, the possibility of the works disrupting bats in a manner prohibited by legislation had been highlighted.
- In light of this, those members who had called the decision in felt the award of a contract for the enabling works at Stonebridge Annexe should be postponed until the recommendations of the bat assessments and the requirements of the Habitat Directive had been fully assessed and complied with.
- The Council should ensure adequate training for officers on the requirements of the Habitat Directive and consider having mechanisms in place to ensure any building with potential bat presence would be properly surveyed, even if no planning consent was required.

The Chair then invited Philip Grant, a member of the public who had requested to speak in support of the call-in, to address the Committee. Comments were made as follows:

- Concerns were raised at the called-in decision being signed off by the Operational Director – Property & Assets on behalf of the Strategic Director – Regeneration & Environment given that he had also recommended the proposed decision.
- These concerns were further highlighted by Brent Property Services also leading the Morland Gardens project. Whilst the original Morland Gardens design had retained its locally listed Victorian villa, this had since been changed. By 2019 the design had changed and the villa would be demolished, and it was felt that this was done without consideration of its historic and architectural value, and was against the Council's planning policy.
- Given the concerns raised, it was felt that the called-in decision needed to be reconsidered prior to the Council committing expenditure should the overall development not proceed.

The Chair thanked Councillor Lloyd and Philip Grant for their contributions. The Chair then invited Alan Lunt, Strategic Director – Regeneration & Environment, to respond to the representations made. Comments were made as follows:

- It was important to note that the called-in decision and the Morland Gardens planning decision were separate. Many of the issues outlined in the call-in form related to the planning decision, however the planning process was outside of the Committee's remit.
- The called-in decision was made in order to enable the Council to enter into a contract for the refurbishment of Stonebridge Annexe. The Council had not yet entered into the contract, nor would it do so until the planning process in relation to Morland Gardens had been concluded. As such, it was not committing to any expenditure at this stage.
- The Council had made the called-in decision because, assuming the planning process was concluded, it would allow the Council to proceed with the letting the contract and refurbishment the property with minimum delay in order to and facilitate the decant of Brent Start holidays (which would mitigate any disruption to the service and its users).
- The called-in decision was taken by the Operational Director – Property & Assets on behalf of the Strategic Director – Regeneration & Environment because the latter was on annual leave. This was permitted under the Council's Scheme of Delegation with the Strategic Director – Regeneration & Environment confirming he would have made the same decision.
- In relation to the requirement for bat surveys at Stonebridge Annexe, as it would be a refurbishment and therefore not require planning consent, there would be no legal requirement for a bat survey at this stage. Nonetheless, the Council had commissioned a bat survey which had identified two places on the outside of the building through which bats could potentially gain access. However, the works would not involve the disturbance of these areas and so it was unlikely that the works would require any form of European Protected Species Mitigation License.

The Chair thanked the Strategic Director – Regeneration & Environment for his responses and then invited questions and comments from the Committee, with the following points raised:

- Councillor Perrin raised concerns about the Council's compliance with planning regulations relating to bats, as well as the Council's Scheme of Delegation. It was felt that the concerns raised in relation to governance arrangements relating to the Council's delegated authority process should be subject to a separate review as these fell outside of the call-in meeting's remit.
- Councillor Miller welcomed the assurances given by the Strategic Director – Regeneration & Environment that the Council would not let the contract until the planning consents in relation to Morland Gardens had been concluded. He was assured that legal advice regarding the regulations in relation to the management of bats as part of the project had been received by the Council, and requested that this information be circulated to members following the meeting.
- Following a question from Councillor Long, it was noted that it was solely presence of bats, rather than the amount of time bats may have been

present, that would warrant the Council to apply for any form of European Protected Species Mitigation License. However, the Council had been advised that there were currently no bats present at Stonebridge Annexe, and that there had also been no presence during previous works at the site.

- The Strategic Director – Regeneration & Environment clarified a point raised earlier in the discussion around the removal of bats in winter. It was noted that should the presence of bats be detected, regardless of the time of year, the Council would need to apply for a European Protected Species Mitigation License in order to ensure their safe removal.
- In response to a question from Councillor Hassan, it was noted that assessments regarding biodiversity were usually required when planning consent was required, which explained why they had been undertaken in the case of Morland Gardens. As Stonebridge Annexe did not require planning consent, there was no requirement for bat assessments at this stage. In any case, as the works were internal, it would be unlikely that bat roosts would be disturbed.
- Councillor Kabir was reassured that the Council had not yet entered into a contract, nor would it do so until the planning consents in relation to Morland Gardens had been concluded. The called-in decision would allow the Council to swiftly let the contract once, or if, it was in a position to do so.
- Councillor Mahmood was also reassured that the called-in decision being taken by the Operational Director – Property & Assets on behalf of the Strategic Director – Regeneration & Environment was permitted under the Council's Scheme of Delegation and that the decision would still have been taken had the Strategic Director – Property & Assets been able to do so himself.
- In response to a question from Councillor Long, it was noted that the proposed contract award had been subject to a full and detailed procurement process and that the called-in decision not formally enter the Council into a contract.
- Councillor Choudhary raised concerns about the tendering process, and in particular the assessment criteria for each bidder. While this issue was outside of the call-in meeting's remit, it was noted that in the case of the called-in decision, the Council had regard to quality, social value and commercial, with those bidders recording the highest ranking being best placed.
- Following a question from Councillor Perrin, the Committee was reassured that the Council would comply with any relevant laws regarding the protection of bats in relation to both Morland Gardens and Stonebridge Annexe. The Committee was reminded, however, that as Stonebridge Annexe did not require planning consent, there was no legal requirement for bat surveys at this stage but, in any case, the Council would endeavour to protect bats if detected.
- Councillor Long inquired into the quality of accommodation at Brent Start. As the question was not related to the called-in decision, and therefore outside of the Committee's remit, Councillor Stephens, as the Lead Member for Schools, Employment and Skills, advised that he would liaise with Councillor Long regarding the issue outside the meeting.
- Councillor Kennelly, speaking on behalf of those members who had called the decision in, raised concerns over the Council's approach to bat assessments at Morland Gardens and hoped that it would take all necessary

steps in complying with the relevant laws should the planning process be concluded.

- Councillor Lloyd, also speaking on behalf of those members who had called the decision in, outlined the process for applying for a European Protected Species Mitigation License and urged the Council to take this into consideration as part of the planning process in relation to Morland Gardens.
- In summing up, the Chief Executive reminded the Committee that the called-in decision and the Morland Gardens planning decision needed to be regarded as separate. Many of the comments raised during the meeting had related to the planning decision, however the planning process was outside of the Committee's remit with officers having also assured the Committee that the award of the contract, which had been subject to call-in, would not go ahead until the necessary planning consents in relation to the Morland Gardens project had been obtained. The issue of bat assessments was entirely a matter related the Morland Gardens planning decision and the timing of these assessments had no bearing on the decision to award the contract.

As no further comments were raised, the Chair thanked everyone for their contributions and then invited the Committee to consider the recommendations set out in the report in relation to the outcome of the call-in.

RESOLVED

That the Committee confirm the original officer key decision, without reference back to the decision maker for reconsideration subject to:

- a) The decision be not implemented until Planning Consent had been confirmed by the GLA.**
- b) That confirmation be provided that the required minimum of three bat surveys between May and September 2021 will be undertaken and appropriate action to protect bats implemented prior to works commencing at 1 Morland Gardens.**

As an additional action identified during the meeting it was also agreed that the legal advice provided in relation to the requirements for bat assessments at Stonebridge Annex as part of the called-in decision be provided for members of the Committee.

The meeting closed at 7.10pm

R MASHARI
Chair