

MINUTES OF THE MEETING OF THE CABINET HELD ON MONDAY, 5TH AUGUST, 2019, 6.30 - 7.00 pm

PRESENT: Councillors Joseph Ejiofor (Chair), Charles Adje, Kaushika Amin, Mark Blake, Gideon Bull, Seema Chandwani, Emine Ibrahim and Sarah James

207. FILMING AT MEETINGS

The Leader referred to agenda item 1, as shown on the agenda in respect of filming at meetings and Members noted this information.

208. APOLOGIES

Apologies for absence were received from Councillor Brabazon and Councillor Hearn.

209. DECLARATIONS OF INTEREST

No declarations of interest were made.

210. MATTERS REFERRED TO CABINET BY THE OVERVIEW AND SCRUTINY COMMITTEE - DECISION OF THE OVERVIEW AND SCRUTINY COMMITTEE HELD ON THE 29 JULY 2019 REGARDING MINUTE 192 & 201

The Leader noted this was a special meeting of Cabinet held to re-consider the decision on Red House Yard, 432 West Green Road N15 3PJ taken at its 9 July 2019 Cabinet Meeting. This was following a call-in considered by the Overview and Scrutiny Committee (OSC) at its meeting on the 29 July 2019, where they decided to refer this decision back to Cabinet for re-consideration.

Regarding the process of the meeting for Councillors present (who were not on Cabinet) to ask questions, the Leader referred to the Council's Constitution at Part 4, Section F, 2.7, and allowed Members of the OSC and the Leader of the Opposition to ask questions in the meeting. Councillor Palmer was present on behalf of the Leader of the Opposition.

The Leader next invited the Chair of the OSC, Councillor das Neves, to present the Committee's report and recommendations from the call-in.

Councillor das Neves thanked the Leader and outlined the background and findings of the call-in meeting, as set out in the report at pages 1 – 3 of the supplementary report pack. Councillor das Neves highlighted the recommendations, as set out below.

The Cabinet Member for Finance and Strategic Regeneration thanked Councillor das Neves and the OSC for their thorough review. The Cabinet Member was pleased that the OSC found the decision was within the budget and policy framework and provided the following responses in regards to its recommendations:

Recommendation 1 - That Cabinet defer final decision on the matter until an alternative and fully costed option for direct delivery of the scheme by the Council is developed, shared and considered fully. The Borough Plan emphasises the building of Council homes on Council land and this commitment should be honoured by the Council through it retaining ownership of the freehold of sites and building homes itself wherever possible

This recommendation was not accepted. As the Cabinet Members and officers stated at the OSC hearing, the preference of the Cabinet was to proceed with the Paul Simon Magic Homes (PSMH) land disposal and purchase agreement because it offered the fastest means of securing much needed Council homes against the Borough Plan objective of 1,000 Council homes. A delay in making a decision on the proposed agreement with Paul Simon Magic Homes pending the production of a fully worked up direct delivery alternative would not only delay delivery of homes in any scenario but may also put the Paul Simon option at risk of being undeliverable.

Recommendation 2 - Cabinet should consider how trust, accountability and transparency may be enhanced when making key decisions. In particular, specific consideration should be given to how professional legal advice can best be recorded and shared so that a clear understanding can be gained of the substance of advice given and to what extent key decision makers have been party to that advice and their understanding of it. Cabinet should consider how this advice can be made available even if only as an exempt item

The principle behind this recommendation was accepted. However, the Cabinet Member was satisfied that all relevant legal considerations were shared and considered in the report to 9 July 2019 Cabinet. A summary or digest of external legal advice was usually shared in Cabinet papers, as it had been in this report, and to which Cabinet gave due consideration. The Monitoring Officer would determine, taking into account all the relevant circumstances, whether and how the full legal advice could be shared, if requested.

Recommendation 3 - That clear reasons be provided for the selection of developers in future acquisitions and disposals of land, with recognition that transparency demands clarity of why selections are made

The principle behind this recommendation was accepted. However, the Cabinet Member stressed that, in this case, the process by which Paul Simon Magic Homes became involved – including its treatment as a ‘special purchaser’ given its relationship with the other land owners – was set out in the 9 July 2019 Cabinet paper. Further history on the Council’s engagement with PSMH was described in the Cabinet decision of 2016, which was referenced as a background document in the current Cabinet paper.

Recommendation 4 - When the development of sites is being considered, a process of identification of all key stakeholders should take place and they should be included fully in the process. All reports should make clear what engagement and consultation has taken place and with whom

The principle behind this recommendation was accepted. In the case of the Red House in particular, the Council actively consulted with local stakeholders on the closure of the care home, and on the proposed site allocation in the Local Plan. There was also consultation on the proposed development of this site through the planning process which resulted in the successful approval of consent on 8 July 2019. The Council always strived to ensure that its consultation with local stakeholders – and especially potentially vulnerable or hard to reach people – was as productive as it could be.

Recommendation 5 - There be better co-ordination between different Council teams when providing reports and/or information on cross cutting issues. In particular, there should be clarity and consistency on the borders of development sites across all relevant documentation in order to avoid confusion

The Cabinet Member agreed that such clarity was important, although he was not aware of any inconsistency – or poor co-ordination between Council teams – in this case. Annex A of the Cabinet report was clear about the boundary of the Council's land interest, and the other related land interests that were relevant to the current planning consent and current development proposal by PSMH. The Mitalee centre was not included in this plan because the Mitalee was neither part of the planning application nor part of the proposed disposal and acquisition agreement with PSMH. Where the Mitalee centre was included in any diagrams, that was clearly and accurately identified as being a reference to the wider site allocation in the Local Plan. Neither Cabinet Members nor Planning Committee members expressed any concern about confusing or inconsistent images.

Recommendation 6 - Although the Cabinet report made reference to Public Sector Equality duties under the Equality Act, all housing related proposals should have their own, stand alone, Equalities Impact Assessment that outlines risks and how they will be mitigated to allow the Council to meet fully its legal obligations

The Council was obliged by the Equality Act 2010 to have due regard for the need to meet the aims of the Public Sector Equality Duty. In order to ensure that decisions were taken with due regard, Cabinet reports included as standard a section on equalities, and the report on this decision included (in paragraphs 8.10 to 8.13) an assessment of the relevant equalities issues. In line with accepted good practice, the Council used a screening tool to determine which decisions required a more detailed standalone Equalities Impact Assessment. That tool enabled the Council to identify proposals where the due regard necessary was particularly high and where a detailed Equalities Impact Assessment was therefore required. Whilst the Council was constantly alert to potential improvements in the way we honour our obligations under the Equalities Act, it considered that it would not be proportionate for all decisions in any particular area of the Council's work to involve a full standalone impact assessment.

Recommendation 7 - That it be noted that the Overview and Scrutiny Committee will be including issues arising from this matter within its future work planning processes

This was noted. Officers and Cabinet Members looked forward to working with OSC on this review.

The Cabinet Member noted that, with regard to the one year update report on the manifesto promise in the Borough Plan, achieving the 1,000 council homes target was ambitious and required all available delivery tools to be utilised, including building (where possible) in-house, working with others to build council homes and acquiring council homes through the planning system. The Cabinet Member closed by stating the decision on 9th July 2019 was in line with the principles as set out by the Cabinet Member for Housing and Estate Renewal.

In response to questions from Councillor Palmer and Councillor das Neves, the following information was noted:

- The Cabinet Member for Housing and Estate Renewal agreed that effective due diligence was essential in ensuring the Council did not carry out any business with developers found to be contravening the Modern Slavery Act 2015, especially in cases where there had not been a formal procurement process. The Cabinet Member was satisfied there were significant due diligence mechanisms in place.
- Regarding the Cabinet's decision on Red House, the Cabinet Member for Housing and Estate Renewal re-emphasised it was still an on-balance decision. In the perfect scenario, where the Council was in full control of the land, the Council would carry out direct delivery of the homes on that site, as it was doing on other sites in the Housing Delivery programme. However, the Cabinet Member supported this decision due to the speed of delivery by PSMH, which the Council was not in a position to match.
- The Cabinet Member for Housing and Estate Renewal agreed with Councillor das Neves that an equality impact assessment was an important tool for decision making but considered the 9th July 2019 Cabinet Report did contain substantial equalities considerations. The Cabinet Member claimed the decision would have a positive equalities impact in the borough, by helping 46 families on the housing list, which was disproportionately represented by individuals with protected characteristics, attain council homes. Furthermore, the Cabinet Member for Finance and Strategic Regeneration added that in the 9th July Cabinet report, sections 8.10 to 8.13 referred to the positive impact the Red House decision would have on individuals with protected characteristics.

Councillor das Neves thanked the two Cabinet Members for their responses and invited closer consideration of equalities impacts on all future decisions taken by Cabinet. However, Councillor das Neves noted disappointment that Cabinet did not accept recommendation 1, which she claimed would have demonstrated greater transparency.

The Leader thanked Councillor das Neves and the OSC for the time and effort they put into reviewing this decision, and also the sincerity with which that review was carried out.

RESOLVED *(as set out in the 9th July 2019 Cabinet report)*

1. To agree to the disposal of the Council's freehold interest in the Red House Site, 423 West Green Rd, N15 (land identified in the attached plan at Appendix A) to Magic Living Ltd (Paul Simon Magic Homes Group) for a sum as provided in the exempt Part B of the report, under Heads of Terms which are also attached in PART B, with the land receipt to the Council to be hypothecated against any repayment of a NHS grant in respect of the former Red House care home, should such a payment to the NHS be required; and
2. To agree to the acquisition by the Council for housing purposes of the freehold interests in two blocks of flats, comprising a total of 46 social rented homes, to be constructed by Magic Living Ltd (PSMHG) on sites B and C on the attached plan, for a maximum sum of provided in Part B of the report plus the Council's acquisition costs, and according to the terms which are also set out in the Heads of Terms document attached as the annex A in PART B, the exempt part of this report; and
3. To give delegated authority to the Director of Housing, Regeneration and Planning, in consultation with the Director of Finance to agree the final contracts; and
4. To agree that the Council should make financial provision as detailed in Part B of the Report, including Council on-costs for the project, provision for which exists within the Council's Housing Revenue Account, and thereby making use of the housing grant the authority has been allocated by the Mayor of London's affordable housing programme; and
5. To agree to the acquisition by the Council for a consideration, as set out in Part B of the report, of green space shown green at Site D on the attached plan at Appendix A, following the completion of the development, in order to provide for the creation of new public open space in the St Ann's area which will be managed by the Council.
6. To agree to transfer, for a sum provided in Part B, the exempt part of the report, of the Council's freehold interest in the small strip of land (identified as site E on the attached plan at Appendix A) fronting the church to the owners of the DHCA church, in order to enable the church to participate fully in the development of the overall Red House site and in accordance with the proposed planning application. This transfer is to be on condition that the owners of the DHCA church remains party to the wider site development partnership with Magic Living (PSMHG) and makes use of this land in support of the scheme as granted under the future planning determination.
7. Recommendation 7 is fully contained in PART B, the exempt part of the report.

211. RED HOUSE YARD, 432 WEST GREEN ROAD N15 3PJ

Cabinet agreed that, given that the exempt minutes and key decision number 201, had been previously agreed following consideration of the exempt information at the July meeting and the response to the scrutiny recommendations did not require further reference to the exempt part of the report, it did not require to go into private session and made its decision in public, as per item 210.

RESOLVED that the exempt recommendations be granted.

CHAIR: Councillor Joseph Ejiofor

Signed by Chair

Date