

## **BATH AND NORTH EAST SOMERSET**

### **MINUTES OF CORPORATE POLICY DEVELOPMENT AND SCRUTINY PANEL MEETING**

Monday, 13th January, 2020

Present:- **Councillors** Paul Myers, Winston Duguid, Mark Elliott, Andrew Furse, Hal MacFie, Alastair Singleton, Shaun Hughes, Karen Warrington and Lucy Hodge

**Cabinet Member for Resources:** Councillor Richard Samuel

Also in attendance: David Trethewey (Director for Partnership & Corporate Services) and Michael Hewitt (Legal Services Manager)

#### **25 WELCOME AND INTRODUCTIONS**

The Chairman welcomed everyone to the meeting.

#### **26 EMERGENCY EVACUATION PROCEDURE**

The Chairman drew attention to the emergency evacuation procedure.

#### **27 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were none.

#### **28 DECLARATIONS OF INTEREST**

There were none.

#### **29 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIRMAN**

There was none.

#### **30 ITEMS FROM THE PUBLIC OR COUNCILLORS - TO RECEIVE DEPUTATIONS, STATEMENTS, PETITIONS OR QUESTIONS RELATING TO THE BUSINESS OF THIS MEETING**

Mr Bob Goodman made a statement to the Panel in relation to agenda item 7 (Call-in of Decision E3181). A copy of the statement can be found on the Panel's Minute Book and a summary is set out below.

I am here in a non-political way as a resident of the City I grew up in and which I hold as the most special City there can be. I am immensely concerned that the Commercial Portfolio which this Council hold is being frittered away at the expense of what is important to the residents.

I speak, I believe, from a degree of authority on this subject being a Fellow of the Royal Institution of Chartered Surveyors (RICS) and one who trained in this City's

Commercial Department which then was the envy of local Authorities throughout the Country – Oh how things have changed.

We have here a situation whereby we are being told that it makes economic sense to give – YES GIVE nearly ½ a million pounds to a Tenant so they can get out of their responsibilities under the terms of the Lease.

It is clear that there are structural faults with the building which have not been addressed and which are the responsibility of the Tenant – I suspect there is a dilapidation liability with respect of the Tenant in excess of £500,000-£700,000 – so Guinness is getting away with say £1.2 million when you add the payment which is being made.

Where is the dilapidation report? Who carried it out? Then where is the Valuation Report from the surveyor? If GVA prepared this and continued the negotiation and their fee is linked to the surrender, one has to question the Conflict of Interest and whether the RICS Red Book has been complied with. This needs independent verification.

We need transparency – Let all the information be put out there so we can believe what is being said.

The surrender of the Lease also means the loss of some 20 Social Units, the Tenants having to be rehoused by the Council's Housing Provider – adding further to the housing waiting list.

So much for this Administration's Manifesto to create more Social Housing. This is a significant failure.

If this Scrutiny Panel does not send this back to Full Council, then they are letting the people of Bath down and they will have significant questions to answer in the future.

Please also recommend a Root and Branch review of this Commercial Estates Department so that you can have confidence in the advice that is being received.

Councillor Winston Duguid asked if he was surprised to see a reverse premium on a lease such as this.

Mr Goodman replied that he felt it was unusual on a premises such as this.

The Chairman asked if more information regarding this decision should have been publicly available.

Mr Goodman said that yes it should have been as the process was not transparent at all.

Councillor Paul May made a statement to the Panel in relation to agenda item 7 (Call-in of Decision E3181), a summary is set out below.

My query is the financial logic of the proposal. Having signed such a long lease, surely the Guinness Housing Association must have carried out due diligence in relation to the building and their use of it.

I would say that if their needs have changed the responsibility for the property remains theirs, but we have been told that we must buy them out for an enormous sum of money without them doing any remedial works.

We have not been made aware of the size of the risk we are taking on and no figures have been shared for the overall cost of the project.

There also seems to be some confusion over the deadline for vacation of the property and that should be confirmed.

Finally, a full property appraisal must be shared publicly.

Councillor Vic Pritchard made a statement to the Panel in relation to agenda item 7 (Call-in of Decision E3181), a summary is set out below.

There has been a lack of transparency with no explanation to the public of what the plan is to do with this asset despite key local impacts on housing and finance. I find this extremely disappointing which is why this Cross-Party supported Call-in was made in order to achieve some proper scrutiny.

What are the implications for homeless housing stock of losing 20 properties? We already have a shortage and this decision can only exacerbate it.

It is not justifiable to spend such a large amount on something due to come back to us in a poor state. What is the value of property, cost of refurb, completed value?

To handover £450K without a business case being in place is not justifiable.

We don't believe the tenant should be allowed to walk away without contributing – setting a dangerous precedent.

We don't believe that this Administration has demonstrated that the Council is getting the best outcome for homeless people or best value for money from these arrangements.

Councillor Robin Moss made a statement to the Panel in relation to agenda item 7 (Call-in of Decision E3181), a summary is set out below.

This meeting should be a good example of scrutiny and allow the public and Councillors to understand the decision that has been made.

Does the decision fit in with the priorities of the Council? Does it make financial sense for the Council?

Can the loss of 20 housing units and the reverse premium payment be justified?

What is the current value of the property? How much will it cost to repair any dilapidations? What will be the final value of the property and will the Council have a say in how this money is spent?

I ask the Cabinet Member to review this decision.

**31 CALL-IN OF DECISION E3181: 23 GROSVENOR PLACE, LONDON ROAD, BATH BA1 6BA: SURRENDER OF EXISTING GUINNESS HOUSING ASSOCIATION (GHA) LEASE, SUBJECT TO PAYMENT OF A REVERSE PREMIUM**

Councillor Colin Blackburn, Lead Call-in Member addressed the Panel, a summary of his submission is set out below.

I would like to share with you my concerns as I haven't been privy to the comprehensive report that Richard Samuel MUST have received to push ahead with his decision.

23 Grosvenor Place was built for people to sleep in. As a hotel, opened in 1790 I'm sure it saw many persons through its doors.

Whenever it came into the Authorities ownership, and I haven't been able to ascertain when that was or why, a decision was taken to turn it into Social Housing and provide 20 homes. 180 years after it opened as a hotel, Bath City Council refurbished and made it a home for 20 separate people. 23 years later (1993) a lease was agreed with The Guinness Housing Association Ltd (now known as The Guinness Partnership). A social housing provider, please note this was 6 years before the mass transfer of housing stock to what has become Curo.

The lease agreed was 65 years long with an annual rent of circa £20k (that's worth approximately £40k in today's money allowing for inflation).

25 years after the lease, they ASKED US if they could surrender it. This can't have been for the lack of tenants. Our own Home Search website states that 'most people wait months or years for Social Housing in Bath & North East Somerset. At today's Social Housing rent values, they should be receiving circa £100k per annum against their £20k annual rent. That's not a bad return and that value will only grow in the coming years as rents go up and our lease stays static. Surely that's plenty of projected margin to invest in the upkeep and modernisation of the building.

Who are The Guinness Partnership and why do they want out of our lease?

They are one of the UKs largest and longest standing housing associations, with 66,000 homes and circa 140,000 tenants, they operate with income above 30% margin (clearly 23 Grosvenor Place was well above even that figure).

So by giving up the lease, which appears just to no longer fit their plans, where are they building 20 replacement dwellings in our authority area.....oh, they aren't, they are busy elsewhere. So we will be taking back a building, seemingly not fit for purpose, but losing 20 dwellings for our most vulnerable residents. That is a

business decision by them, and it's at their request, This is not a housing provider led decision by our tenant considering their tenants.

So what's the state of the building .....we shouldn't worry about that, it's a full repairing lease. Oh, but there appears to have been no formal dilapidations report, why not and why haven't The Guinness Partnership agreed to either do the work or pay for them. His answer may be in the comprehensive report that Cllr Samuel should have received, but I doubt it.

So, what's normal in a situation when a tenant asks to leave a lease agreement early. You agree a breach clause fee don't you? Well, first thing is maybe to get a report done as to the current value of the building ..... I have been told varying figures but some conclude £1.5million in its current state ...but we have never been shown that valuation, why not?

Getting professional advice, seems a sensible course of action. GVA appear to have been asked but no provision has been made for a second opinion We have never seen that professional advice but the result is we are being told we must pay OUR tenant £450,000 to give us back OUR building that they have asked to leave.

If we were helping this Housing Association to provide modern, fit for purpose dwellings elsewhere in the city then maybe a contribution towards that might make this more palatable but that is not happening.....they are taking our money and leaving town. In real terms, we are giving them back 22 year's worth of the rent they have paid over the last 26 years and giving us back a building in a far worse state than when it was first given to them.

This isn't the first time I have seen dubious decisions coming from this crucial part of our Council and I feel it is high time an independent review of the effectiveness of the management and processes within this massive asset holding part of the Council is done, before any more damage is done to the financial backbone of our Councils wellbeing. I am asking this Scrutiny panel, in light of the non-transparent way this transaction has been handled, to request our new Chief Executive to commission an independent review of the department and its leadership. As Councillors we should not be being kept in the dark.

I have asked 3 members from the last administration what they knew about this 'deal' and none were aware. This has been sat on for 2 years whilst high value negotiations have taken place. This deal sets an terrible precedent as a Landlord with any long term leases, but there might be a legitimate reason why ..... Well if this were a decision for a Scrutiny Panel (like planning) unless we had detail, it should be rejected and the officers advice overruled.

This is OUR asset, that The Guinness Partnership are responsible for maintaining. It appears we will look for a quick disposal to re-coup our £450,000 (a fire sale at £1.5m) and it will get redeveloped by a profit driven developer into 20 apartments worth £250k each.....that's £5m by the way!

I respectfully ask that this panel recommend OPTION B, that this decision is sent back for reconsideration and request that the comprehensive Single Member

decision report that Cllr Samuel must have received, be published for us all to be able to understand the reasons and justifications for this use of TAXPAYERS money.

Prior to Councillor Samuel addressing the Panel the Chairman stated that he would only be speaking with regard to information that was in the public domain and that if the Panel decide that it needs to move into an exempt session they would move to another room.

Councillor Paul May asked if that would exclude all other Councillors.

The Legal Services Manager replied that as stated in the constitution only members of the Panel would be present to discuss any exempt information.

Councillor Richard Samuel, Cabinet Member for Resources addressed the Panel, a summary of his submission is set out below.

He said that he welcomed this opportunity to address the concerns raised.

He stated that the property concerned is within his ward of Walcot and that despite previous years as a Ward Councillor he had not received any communications about the property prior to this decision making process.

He said that in 1993 Bath City Council agreed a 65 year lease with Guinness Housing Association as they had decided the property was no longer manageable by the Council.

He explained that in September 2014 an options appraisal of the property was carried out and that discussions with the Council began in May 2015, therefore the previous administration would have had an oversight.

He said that the original sum sought as a reverse premium by Guinness was much in advance of the sum agreed and that the Council has achieved good value through this process.

He stated that the decision to lose housing stock had not been taken lightly.

He said that the property was a warren of rooms and corridors and not truly appropriate for its purpose.

He explained that he understood the claims for transparency, but although there is a public interest, commercial sensitivity exists.

He stated that he would be open to receiving any possible recommendations by the Panel.

Councillor Shaun Hughes asked how the Panel can be assured that this decision really is good value for the Council.

Councillor Samuel replied that details of the decision would be shared with them if they decide to move to an exempt session. He added that the future of the property had not been decided and that a number of options were being considered. He

acknowledged the housing concerns that have been raised and said that it would be a Cabinet decision in relation to the future of the property.

The Chairman said that he felt there was a lack of transparency to the decision and that there was almost a culture of Property Services know best and that the public don't need to know why it is being done.

Councillor Samuel replied that this was the nature of Council work and that it generally operates on the open market and then there are occasions where we have to work in a commercial environment.

He said that he had no criticism of the department as the Council is often approached to buy or sell properties or land and that the experience of officers is essential with regard to decision making.

Councillor Andrew Furse questioned whether other people on the housing waiting list had been overlooked in order to accommodate some of the former residents of 23 Grosvenor Place. He added whether the reverse premium figure could be earmarked by Guinness for future local use.

Councillor Karen Warrington asked if a decision on future use has not been made why does the written response to the Call-in say it will dispose of the vacant property on the open market.

Councillor Samuel replied that it has been earmarked within the Capital Programme as an expected receipt for the past six years and so should this not be achieved it will have to be found from somewhere else. He added that this matter should have been discussed under the previous administration five years ago.

Councillor Shaun Hughes said that it was difficult to have confidence with no context to the £450k figure.

On a motion from Councillor Winston Duguid, seconded by Councillor Alastair Singleton the Panel, in accordance with the provisions of Section 100(A)(4) of the Local Government Act 1972, **RESOLVED** that the public should be excluded from the next part of the meeting, because of the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A of the Act.

Before continuing with the debate, the Chairman announced that agenda items 9 and 11 would be deferred until the Panel's March meeting.

Councillor Samuel said that he did not have a closing statement to make.

Councillor Colin Blackburn made a closing statement to the Panel. He said that he accepted that the property might be no longer suitable for social housing, but that documents relating to the decision should be publicly available even if in a redacted format.

The Chairman said that it was quite clear that there some themes to the comments made so far – decision transparency, social housing loss and the financial case behind the decision.

He said that he felt the decision process should be reviewed as it was not good enough to solely publish a decision with no additional public information.

Councillor Winston Duguid commented in regard to whether the process was compliant with the Royal Institution of Chartered Surveyors (RICS) Red Book and he said that he had been assured that it was. He also said that it had been explained to the Panel why the reverse premium exists.

The Chairman said that the Council must look after the needs of the most vulnerable and suggested that money from the process be ringfenced for future social housing.

Councillor Andrew Furse commented that as negotiations were still ongoing with Guinness could they be asked to spend the reverse premium (£450k) in B&NES and a percentage of the sum received by the Council to be earmarked for future housing.

Councillor Shaun Hughes said that further thought must be given to the transparency of this process as the public need to have confidence in the Council.

Councillor Hal MacFie said it was clear that despite the property now being deemed not fit for its current purpose it was clear of the need for housing units of this type within B&NES. He added that he believed that all Councillors should have access to the information that the Cabinet Member has seen.

Councillors Lucy Hodge and Mark Elliott both stated that a review of the process must be undertaken to assure future transparency.

Councillor Karen Warrington stated that she wanted the Call-in to be upheld and referred back to the Cabinet Member for Resources for further consideration and proposed the following recommendations to the Panel.

- i) Whilst understanding the needs of commercial sensitivity a process should be sought to increase transparency, including allowing a member from each political group access to exempt information so that the decision making process is more transparent.
- ii) Ring fence a percentage of the incoming capital receipt from this decision for future social housing in Bath & North East Somerset. A percentage of 50% or thereabouts is recommended.
- iii) Encourage the Guinness Housing Association through negotiations to spend the reverse premium on social housing in Bath & North East Somerset.

Councillor Winston Duguid seconded the recommendations and proposed a further recommendation to the Panel.

- iv) In view of comments made to the Panel about the Property Services department in relation to other parts of the Council, a review of the Property Services department be undertaken to allow for a refinement to its decision making processes to ensure better democratic accountability and transparency in the future.



The Panel agreed unanimously with the recommendations proposed and therefore the Call-in was upheld.

**32 MINUTES - 24TH SEPTEMBER 2019**

The Panel confirmed the minutes of the previous meeting as a true record and they were duly signed by the Chairman.

**33 CONTACTING THE COUNCIL (BACKGROUND BRIEFING:- REPORTING AN ISSUE TO THE COUNCIL)**

This item was deferred until the Panel meeting scheduled for 30<sup>th</sup> March 2020.

**34 CABINET MEMBER UPDATE**

Councillor Richard Samuel, Cabinet Member for Resources addressed the Panel. He stated that he had been working with other Cabinet Members and officers in relation to the budget that would be debated by the Panel at their meeting on 3<sup>rd</sup> February 2020.

He explained that he has been taking part in discussions regarding the future of the Council's Waste & Recycling Centres and the upcoming Cabinet decision on the Transfer Agreement with Aequus Companies.

He stated that the Full Business Case for the Clean Air Zone was also to be debated later in the week by Cabinet and that its implementation was dependant on sufficient funding being received from DEFRA (Department for Environment, Food & Rural Affairs).

The Chairman thanked him for his update on behalf of the Panel.

**35 RETAIL CENTRES: INITIATIVES / RENT PRESSURE / EMPTY PREMISES / COMMERCIAL ESTATE CHALLENGES**

This item was deferred until the Panel meeting scheduled for 30<sup>th</sup> March 2020.

**36 DRAFT CORPORATE STRATEGY**

The Director for Partnership & Corporate Services introduced this item to the Panel. He explained that it is the intention that the Corporate Strategy aligns with the budget proposals that the Panel will discuss further in February.

The Chairman said that if members of the Panel wish to discuss the matter informally, he would be agreeable for such a meeting to take place.

Councillor Alastair Singleton commented on the use of the term 'Climate and nature emergency' as opposed to Climate Change.

The Director for Partnership & Corporate Services replied that the use of language is important within the document and that this indicates the importance of the situation in which the Council is working.

Councillor Andrew Furse highlighted three key areas for him from the Draft Strategy.

- Deliver more carbon neutral, social and affordable housing and ensure that our Houses of Multiple Occupancy (HMO) policies put communities first
- Ensure the Council is an exemplar for low carbon, including the delivery of carbon neutral and energy efficient homes through our housing company
- Have an effective approach to fly-tipping and litter enforcement as well as to city centre cleansing and trade waste

The Chairman thanked the Director for Partnership & Corporate Services on behalf of the Panel.

### **37 PANEL WORKPLAN**

The Panel approved its workplan as printed whilst acknowledging that they had deferred the items on Contacting the Council and Retail Centres until March.

The meeting ended at 6.35 pm

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**