

SCRUTINY BOARD (CITY DEVELOPMENT)

TUESDAY, 1ST JULY, 2008

PRESENT: Councillor R Pryke in the Chair

Councillors C Beverley, B Gettings,
J Jarosz, M Lobley, N Taggart,
G Wilkinson, A Barker and A Ogilvie

14 Exempt Information - Possible Exclusion of the Press and Public

RESOLVED – That the press and public be excluded from the meeting during consideration of the following parts of the agenda designated exempt on the grounds that it is likely, in the view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press and public were present there would be disclosure to them of exempt information so designated as follows:

Appendices E, F and G to the report referred to in Minute 19 under the terms of Access to Information Procedure Rule 10.4(3) and on the grounds that it is considered that its non disclosure outweighs the public benefit of disclosure as disclosure could seriously prejudice the outcome of future commercial dealings relating to this matter and could result in the Council suffering financial loss.

15 Late Items

In accordance with his powers under Section 100B(4)(b) of the Local Government Act 1972, the Chair admitted to the agenda, late papers from Councillor Illingworth which included reports, maps and emails. These documents had been circulated to Members prior to the meeting. Also admitted late to the agenda was an email from the Environment Agency to Councillor Illingworth and the Strategic Flood Risk Assessment of the Leeds Local Development Framework.

These papers had been unavailable at the time of agenda despatch but were considered by the parties concerned to be relevant evidence to the Call-In request being considered at the meeting.

16 Declaration of Interests

Councillor Taggart declared a Personal Interest in respect of Agenda Item 7 'Review of Decision – The Future Ownership and Management of the Council's Small Industrial Unit Portfolio, St Ann's Mills/Abbey Mills, Kirkstall and the Investment and Agricultural Property Portfolios' (Minute No 19 refers) as an Executive Director of Kirkstall Valley Park Ltd.

17 Apologies for Absence

Draft minutes to be approved at the meeting
to be held on Tuesday, 15th July, 2008

Apologies for absence were submitted on behalf of Councillors Harington, A Hussain, R Procter and Matthews.

18 Call-In of a Decision - Briefing Paper

The Head of Scrutiny and Member Development submitted a report regarding the procedural aspects of the Call-In process.

Members were advised that the options available to the Board in respect of this particular call-in decision were:

Option 1 – Release the decision for implementation. Having reviewed the decision, the Scrutiny Board (City Development) could decide to release it for implementation. If this option was chosen, the decision would be released for immediate implementation and the decision could not be called-in again.

Option 2 – Recommend that the decision be reconsidered. Having reviewed the decision, the Scrutiny Board (City Development) could recommend to the Executive Board that the decision be reconsidered. If the Scrutiny Board (City Development) chose this option, a report would be submitted to the next scheduled meeting of the Executive Board. The Executive Board would reconsider its decision and would publish the outcome of its deliberations within the minutes of the meeting. The decision could not be called-in again whether or not it was varied.

RESOLVED – That the report outlining the Call-In procedures be noted.

19 Review of Decision - The Future Ownership and Management of the Council's Small Industrial Unit Portfolio, St Ann's Mills/Abbey Mills, Kirkstall and the Investment and Agricultural Property Portfolios

The Head of Scrutiny and Member Development submitted a report, together with relevant background papers, relating to a decision made by the Executive Board at its meeting on 11th June 2008 as follows:

The Future Ownership and Management of the Council's Small Industrial Unit Portfolio, St Ann's Mills/Abbey Mills, Kirkstall and the Investment and Agricultural Property Portfolios

'RESOLVED -

(a) That the Board notes:

- (i) the failure to identify a suitable partner to manage the Council's SIU portfolio
- (ii) the failure to identify a suitable partner and to receive a credible offer for St Ann's Mills, Kirkstall

(b) That disposals in support of the Capital Programme be agreed as follows:

- (i) selected miscellaneous investment properties as detailed in Appendix E Tables 3a and 3b of the report
- (ii) the farm buildings and gardens, but not the associated farm land, of the agricultural properties detailed in Appendix E Table 2a.
- (iii) the selected small industrial unit properties detailed in Appendix E Table 1a (including St Ann's Mills, Kirkstall), subject to discussion with ward members on details relating to the proposed Ledston Luck disposal

(Under the provisions of Council Procedure Rule 16.5 Councillor Wakefield required it to be recorded that he abstained from voting on this decision)'

The decision had been called-in for review by Councillors J Illingworth, B P Atha, L Yeadon, E Nash and J Dowson on the following grounds:

'This is a very complex decision, initiated in 2004. Much of the original justification has proved to be erroneous, and some of the current justification is wrong or incomplete. Elected members and the public have been needlessly excluded from the decision making process, and as a result the Executive Board were unaware of important information that was material to their decision. Alternative outcomes have not yet been considered that would achieve a better match to national government policies, local aspirations and the council's published plans.'

The Board considered the following written evidence:

- Report of the Director of City Development to the Executive Board on 11th June 2008, including appendices E, F and G which had been designated as exempt under Access to Information Procedure Rule 10.4(3).
- Executive Board Minutes of 11th June 2008.
- Additional information from Councillor Illingworth accepted by the Chair and circulated prior to the meeting to Board Members as follows:
 - 1) The original, internal officers' assessment of the Abbey Mills development opportunities May 2003.
 - 2) Executive Summaries from the Building Condition Surveys on Abbey Mills and St Ann's Mills August 2003 including site plans and prices.
 - 3) Terms of reference for the "Kirkstall Project" December 2003.
 - 4) Extract from "Concept Study" March 2004.
 - 5) First email message from Chris Kwasniewski to the Environment Agency 3 March 2004.
 - 6) Pages 5 and 6 from the valuation of Abbey Mills in March 2004 with the site map.
 - 7) Report to Executive Board on Kirkstall Valley Park May 2004.
 - 8) Various extracts from the project file in 2004.
 - 9) Pages 7 to 10 from the valuation of St Ann's Mills in September 2004 with the site map.
 - 10) Development appraisal of St Ann's Mills as offices 25 October 2004.

- 11) Report on the Kirkstall Mills to the Executive Board 15 December 2004.
 - 12) Email from Robert Sanderson Environment Agency 1 February 2005.
 - 13) Reports to the Inner North West Area Committee September 2005.
 - 14) Extracts from the Feasibility Study September 2005.
 - 15) Minutes of the Access to Information Appeal January 2006 (as amended).
 - 16) Public consultation materials circulated in February 2006.
 - 17) External Audit Report May 2006.
 - 18) Main report the Executive Board 5 July 2006.
 - 19) Officers instructions and planning statements for St Ann's Mills issued to developers in September / October 2007.
 - 20) Map 18 from the Strategic Flood Risk Assessment adopted October 2007 Colour copy.
 - 21) Initial bids received for St Ann's Mills, officer feedback to developers, and final offers received.
 - 22) Pages 1 to 26 of the valuation report on St Ann's Mills dated 25 February 2008.
 - 23) Letters of support from Sporting Organisations and Community Groups (some already submitted with more to follow from Kirkstall Valley Community Association and East Street Arts.).
- Additional information from Councillor Illingworth accepted by the Chair and circulated at the meeting to Board Members as follows:
 - 1) Email from the Environment Agency to Councillor Illingworth 30 June 2008.
 - 2) The Strategic Flood Risk Assessment of the Leeds Local Development Framework.

Councillors Illingworth, Atha and Nash attended the meeting to present evidence to the Board. Councillor Illingworth gave a PowerPoint presentation summarising the evidence circulated to the Board in support of the Call-In request.

Paul Brook, Chief Asset Management Officer, City Development and Chris Gomersall, Head of Property Services, City Development attended the meeting to summarise events and respond to queries and comments from the Board.

Mark Turnbull, Head of Property, Finance and Technology, Legal and Democratic Services, was then invited by the Chair to outline the legal position regarding the Call-In.

The Board then questioned the signatories and Officers at length and discussed the possibility of adjourning the meeting in order to invite a representative from the Environment Agency.

20 Outcome of Call-In

Following consideration of the evidence presented to them, in particular the signatories' views that the Executive Board might have taken a different decision if it had:-

- received further information about the potential for flooding of the site and its likely impact on possible commercial offers for St Ann's Mills, and
- taken more account of the likelihood of uses of the Mills for voluntary and community purposes,

the majority of the Board concluded that information on these factors would not have made a material difference to the Executive Board's decisions and they therefore resolved to adopt Option 1 of the options available to them as outlined in Minute No. 18 above.

RESOLVED – That the Board concluded that information on the above factors would not have made a material difference to the Executive Board's decisions and resolved that Option 1 be adopted and therefore the decision of the Executive Board taken on 11th June 2008, as outlined in Minute No. 24 of the Executive Board Minutes, and recorded in Minute No. 19 above, be immediately released for implementation.

(NB: In accordance with Council Procedure Rule 16.5, Councillors Pryke, Gettings, Barker, Lobley and Wilkinson wished it to be recorded that they voted in favour of the Resolution and Councillors Taggart, Jarosz, Ogilvie and Beverley wished it to be recorded that they voted against the Resolution.)

The meeting concluded at 11.40am.