

OVERVIEW & SCRUTINY COMMITTEE

30 NOVEMBER 2023

PRESENT:

Councillors Norman (Chair), Ball, Booker, Ho, Holland, Trent, Ray, Robertson, Whitehouse and Woodward

40 APOLOGIES FOR ABSENCE

Apologies were received from Councillors Leung, Yeates, Hawkins and Booker. Councillor Booker later joined during Item 5.

41 DECLARATIONS OF INTERESTS

There were no declarations of interest received.

42 MINUTES OF THE PREVIOUS MEETING

The minutes of the previous meeting held on November 14th, 2023, taken as read, were approved as a correct record, subject to the following changes:

- Changing “Chase Terrace” to “Chasetown” in the Medium Term Financial Strategy Item.
- Correcting the attendance details of Cllr Ho and Cllr Whitehouse.

43 EXCLUSION OF PRESS AND PUBLIC

Item 4 was deferred until discussions on the publicly available main body of the Cinema report were completed. Item 4 was formally moved later, to facilitate members questions on the confidential appendix to the report.

RESOLVED: “That as publicity would be prejudicial to the public interest by reason of the confidential nature of the business to be transacted, the public and press be excluded from the meeting for the following items of business, which would involve the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972”.

44 A CINEMA FOR LICHFIELD - UPDATE

The Chair introduced the item by requesting members not to refer to the specifics in the confidential section of the report as that would mean the meeting would have to exclude the public at an earlier stage than he planned. Before inviting questions from members, he drew attention to the Recommendations that are to be considered by members.

The committee then scrutinised the cinema report, due for Cabinet discussion on Tuesday 5th December, raising questions and providing feedback to be incorporated.

- Members asked who the independent valuer was.
It was confirmed that Aspinall Verdi were specialists in regeneration, with expertise in the holistic aspects of regeneration as well as valuation.

- Members asked why no business plan had been produced yet.
Cllr A. Smith (Deputy Leader and Cabinet Member for Leisure, Parks & Major Projects) agreed that he had raised the same question previously. He confirmed he wanted the finalised business plan to come before O&S when it is available. It was noted that the business plan would not cover the operation of the cinema as LDC would be operating as a landlord in that environment. Simon Fletcher (Chief Executive) added that the authority has a clear focus on development alongside the business case. The business plan will need to be approved before trading begins but development of the scheme would be focused on first.
- Members asked for clarification on the differing figures mentioned in the report. *Anthony Thomas (Assistant Director Finance & Commissioning) explained that £3.5 million is the figure that Evolve Estates have put forward as the potential cost of the buyout. The £3.999 million figure is related to the cost of the development but that an element of the calculation related to the development cost is a moveable number, and based on the Council's independently reviewed budget this would account for £200,000 of additional budget, and the potential for stamp duty land tax around £300,000 – this could potentially be mitigated, reduced or not payable. Mr Thomas highlighted it was his responsibility to put forward a budget that takes account of that risk.*

It was confirmed that the sum of costs would include the £3.999 million in addition to the £5.788 million set out in the capital programme.

- Members asked when it would be possible to see the draft business plan.
Mr Fletcher confirmed the authority had worked closely with Evolve to understand both the cost of the development and the projected income from the first 3-5 years of trading. This would be shared with the committee following the meeting.
- Members asked when the legal advice would be available.
It was confirmed a draft version of the legal advice had been received. The outstanding parts remain 'best value' and that there are no subsidy control concerns. It was expected that would be closed by the time of Full Council on 12/12/2023.

Cllr A. Smith confirmed the Cabinet decision is fully dependent on that legal advice.

- Members asked for reassurance on changes to the original budget.
Mr Thomas explained that the original proposal in October 2022 went to Cabinet with a figure of £5.3 million. Subsequent independent scrutiny by a Quantity Surveyor and Price Waterhouse Coopers (PWC) recommended further increases to the contingency budget to take inflationary pressures into account inflation. He confirmed all contingency budgets are based on independent advice and are therefore robust.

Members highlighted that a commitment to buy-out represented a change from the previous position that this was just an opportunity.

- Members asked how secure the £3.5 million pre-agreed figure is.
Mr Thomas explained that figure is a higher number with contingency built in. However, within two years the economic landscape could change in relation to stamp duty and land tax regime. The figures included are based on what is known at the present time.
- Members asked when the buyout clause would take effect.
Mr Fletcher stated that he believed this should be when construction is done and retail units are trading, not from when the contract is signed. This will be defined very clearly in the contract.

Members suggested that if the situation outlined in 3.17b occurs, then the authority should take an additional 1% share to create a 51/49 balance and mitigate potential issues on future agreements. Mr Fletcher agreed this was a smart suggestion and should be kept as an option going forward. He stated that what Evolve is asking for is a commitment to exercise the buyout clause in 2 years' time, regardless of whether LDC choose to buy out or take things to market.

Members recommended that the contract should include a commitment that Evolve will seek the 'best possible price' when taking this to market. Mr Fletcher agreed to include this.

- Members asked for clarification on how the future of the Limited Liability Partnership (LLP) was envisioned.

Cllr Doug Pullen (Leader of the Council) explained there were a number of options available including dissolving the LLP, taking it to an LTD company, or connecting it to LWMTS to replace the other 50% share.

Members recommended that the possibility of dissolving the LLP should be included in the report.

- In reference to recommendation 2.2ii, members requested clarification on what future scrutiny of the ownership model would members have.
Mr Fletcher welcomed members views on this. He agreed to take the question away and return to O&S with proposals on this.

Cllr Pullen confirmed the wording of recommendation 2.2 would be clarified if not amended for the Cabinet recommendation. He explained that the decision currently before members was on whether to commit to exercise the right of the buyout clause in two years' time. It was not a commitment on what the ownership model looks like.

Members recommended that reference to the ownership model should be included at 3.17.

- Members raised concerns about the 5% "central" running void figure in Appendix A.
Cllr A. Smith agreed it was quite right to raise the risks, although highlighted that the Lichfield high street is in a much better position than most other districts.

Mr Thomas explained that vacant void and sinking fund are effectively risk management tools. 3 scenarios modelled (optimistic, central & pessimistic) and robust amounts set aside.

- Members asked why risks E and F appeared to not be reduced via mitigation.

Mr Thomas explained E and F had been assessed prudently. Regarding E, there is not currently full visibility on the service change arrangement. Until full visibility is available the authority cannot know how effective mitigation is. Regarding F, there is an element of risk around cost increase here, whilst contingency had been built in there is always a risk that that may not be enough.

- Members asked for clarification on the difference in figures between the three scenarios outlined in the table.
Mr Thomas explained that the rental income stays consistent through all scenarios, but increasingly cautious assumptions are then applied, meaning the amount of net income generated is calculated as lower the more pessimistic the scenario. The level of the borrowing need also changes across the three scenarios.

Members highlighted that "considering" was not an ideal word to be used in the report in relation to the costs included. Mr Fletcher agreed to obtain assurance on the allocation of this money to the Council given its significance in the funding budget.

- Members requested clarity on the figures relating to the Greater Birmingham & Solihull Local Enterprise Partnership (GBS LEP).
Cllr A. Smith agreed that references to the GBS LEP would be reworded where possible.

The committee formally moved Item 4 – Exclusion of Press & Public to continue discussions on the confidential appendix.