

## MINUTES OF THE CALL IN SUB COMMITTEE HELD ON

7 October 2015

7.30 - 9.10 pm

### **PRESENT**

#### **Sub Committee Members**

Councillor Bob Davis (Vice-Chair, in the Chair)  
Councillor Simon Carter  
Councillor Joel Charles  
Councillor Manny Doku  
Councillor Maggie Hulcoop  
Councillor Patrick McCabe  
Councillor Clive Souter

#### **Officers**

Brian Keane, Head of Governance  
Joel West, Governance Support Officer

#### **Witnesses**

Councillor Jon Clempner, Leader of the Council  
Graham Branchett, Chief Operating Officer

### 1. **APOLOGIES FOR ABSENCE**

Apologies of absence were received from Councillor David Carter.  
Councillor Simon Carter was in attendance as a substitute for Councillor David Carter.

### 2. **DECLARATIONS OF INTEREST**

None. All members of the Sub Committee stated they were not subject to a party whip in respect of matters on the agenda for this meeting.

### 3. **PROCEDURE FOR THE MEETING**

The Chair explained the procedure for the meeting as detailed on the agenda and explained that the Leader of the Council, Councillor Jon Clempner and the Chief Operating Officer, Graham Branchett, are in attendance as witnesses to respond to questions by Sub Committee members.

4. **CALL IN OF DECISION OF CABINET 17 SEPTEMBER 2015: OPTIONS APPRAISAL OF THE FUTURE DELIVERY OF WORKS AND SERVICES CURRENTLY UNDERTAKEN BY KIER HARLOW LTD**

The Sub Committee received a report that explained the call in process and included the original call in notice signed by Councillors Joel Charles and Clive Souter.

In accordance with point (i) of the meeting procedure, Councillor Charles outlined the reasons for the call in. These were as detailed in the call in notice signed by himself and Councillor Clive Souter. He reiterated the request of the call in notice, that the decision be referred back to Cabinet for reconsideration.

In accordance with point (ii) of the meeting procedure, Councillor Clempner provided an explanation for the Cabinet's decision on 17 September. He stressed that the decision was informed by a detailed and independent assessment of the available options; it was not an attempt to impose political dogma. Councillor Clempner had prepared a document that aimed to answer all of the questions raised in the call in notice. The Sub Committee felt that it would not be practical to consider Councillor Clempner's note and asked instead that he answer its questions directly.

In accordance with point (iii) of the meeting procedure, the Sub Committee asked a series of questions of attending witnesses.

Councillor Charles asked a series of questions on the proposed governance arrangements for the LATC, including details of recruitment of Board Members/Directors; level of Councillor involvement in LATC management; stakeholder engagement; compliance with EU procurement legislation; strategies for ensuring retention of current Kier Harlow Ltd staff; managing conflicts of interest; accountability and customer contact under the LATC; and performance management. Councillor Charles asserted that certainty of such detailed matters is necessary before the Council can make a decision on whether or not to create a LATC and felt that the report to Cabinet on 17 September 2015 did not include sufficient detail to enable the Cabinet to achieve such certainty.

Councillor Souter asked a series of questions on the Council's transition/exit arrangements from the JVCo. They included questions on service specification; staffing and TUPE; transfer of assets such as vehicles, plant and machinery; condition surveys of Mead Park Depot; and ICT requirements.

Councillor Simon Carter asked a series of questions on the financial aspects of the Cabinet's decision. Councillor Carter asked why a full business plan for the LATC had not yet been produced. He also asked Councillor Clempner if he agreed that the decision of the consultant to use the same cost base for all options (in the financial appraisal of the appraisal report) represented a fundamental flaw in the options appraisal.

Councillor Clempner and Graham Branchett responded to each question in turn. The following is a summary of the main points that were made in response to the questions:

- (i) Some questions regarding detailed arrangements for governance processes are premature. This is because best practice guidance recommends that a LATC be set up in a staged approach and issues such as governance arrangements, supply chain and preparation of a full business plan comprise the latter stages of this process. Therefore it was not necessary for Cabinet to have certainty of all details when deciding to create a LATC at its September 2015 meeting.
- (ii) Notwithstanding the above point, a proposed governance structure has been developed and was planned to be presented to the October 2015 Cabinet meeting, but has been delayed due to the call in. Proposals will address many of the key questions raised, including how Councillors will be involved in key decisions both for the creation and operation of the LATC.
- (iii) No immediate changes to service delivery are forecast as a direct result of transferring JVCo services to a LATC, therefore matters such as performance management, Equalities Impact Assessment, service quality, innovation etc did not form part of the Cabinet's decision. Many aspects of the LATC's operation (examples given included value for money assessment, auditing, business continuity planning and stakeholder consultation) will be managed in accordance with the Council's normal processes.
- (iv) A number of detailed matters relating to transition/exit arrangements from the JVCo and LATC set up are currently managed through (i) a Transition Board, comprising both Kier representatives and Council Officers; and (ii) a Transition Group, comprising Council Officers. Both groups are chaired by the Chief Operating Officer. Issues such as TUPE transfers, asset transfers (vehicles, plant and machinery), intellectual property rights, risk management registers, monitoring of mobilisation costs and stock condition surveys are being progressed by the groups. Key decisions will be referred upwards for Councillor approval once appropriate governance arrangements are in place.
- (v) The Cabinet has full confidence in the consultant's analysis, including the financial appraisal.

Councillors Charles and Carter summarised the questions they and Councillor Souter had made and stated that the information the Sub Committee had received had not resolved earlier concerns with the Cabinet's decision, as detailed in the call in notice. They urged the Sub Committee to refer the matter back to the Cabinet for reconsideration.

Councillor Maggie Hulcoop said she felt that the questions asked by Councillors Charles, Carter and Souter, both as specified in the call in notice and asked verbally, had been answered fully and to the Sub

Committee's satisfaction and therefore saw no grounds to refer the matter back to Cabinet.

Proposed by Councillor Maggie Hulcoop (seconded by Councillor Patrick McCabe) it was:

**RESOLVED** that the Sub Committee will take no further action in respect of this call in.

CHAIRMAN OF THE SUB COMMITTEE