



CITY OF WESTMINSTER

MINUTES

Cabinet

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Cabinet** held on **Monday 20th April, 2015**, Rooms 5, 6 & 7 - 17th Floor, City Hall , 64 Victoria Street, London, SW1E 6QP

Members Present: Councillors Philippa Roe (Chairman), Heather Acton, Nickie Aiken, Daniel Astaire, Richard Beddoe, Melvyn Caplan, Danny Chalkley, Robert Davis, Rachael Robathan and Steve Summers

Also Present: Councillor Tim Mitchell

1 WELCOME

The Leader welcomed everyone present.

2 DECLARATIONS OF INTEREST

There were no Declarations of Interest.

3 MINUTES - 23 FEBRUARY 2015

3.1 **RESOLVED:** That the minutes of the meeting held on Monday 23 February 2015 be approved as a correct record and signed by the Chairman accordingly.

4 ANY OTHER BUSINESS WHICH THE CHAIRMAN CONSIDERS URGENT

There was no urgent business.

5 EXEMPT REPORTS UNDER THE LOCAL GOVERNMENT ACT 1972

RESOLVED: That under Section 100 (A) (4) and Part 1 of Schedule 12A to the Local Government Act 1972 (as amended), the public and press be excluded from the remainder because they involved the likely disclosure of exempt information on the grounds shown below and it is considered that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information:

Item No	Grounds	Para of Part 1 of Schedule 12A of the Act
6	Information relating to the financial and business affairs of an individual including the authority holding the information and legal advice	3 & 5

6 USE OF POWERS TO OVERRIDE RIGHTS TO LIGHT TO FACILITATE THE DEVELOPMENT OF LAND AT LUXBOROUGH TOWER GARDENS, LUXBOROUGH STREET, W1 (SEE REPORT OF THE EXECUTIVE DIRECTOR FOR GROWTH, PLANNING AND HOUSING)

SUMMARY FOR PUBLIC DISCLOSURE

- 6.1 Ben Denton, Executive Director for Growth, Planning and Housing, introduced the report. He advised that the contractor for the development had been appointed. In relation to injunctable Rights to Light claims Mr Denton gave details of the current position.
- 6.2 Mr Denton, assisted by Tristan Samuels, Head of Development, gave a presentation which showed the impact on the injured parties and other aspects on the project. He informed the meeting that multiple contacts had been made and this would continue in an attempt to reach a negotiated settlement.
- 6.3 Mr Denton advised of the costs involved to enter into agreements with all Rights to Light claimants.
- 6.4 Councillor Melvyn Caplan endorsed the approach as the final resort should negotiations not prove successful. Peter Nixon, Principal Solicitor, gave a legal update and confirmed that it was necessary for the Cabinet to be satisfied that the public good outweighed the private rights.
- 6.5 Councillor Daniel Astaire spoke in support of the recommendations as a final resort. He asked for a briefing note on the legal position setting out how the risk of injunctions could be avoided and damages.
- 6.6 Finally, the Leader of the Council thanked officers for the significant amount of work involved and given that only three cases remained outstanding welcomed the proposals in view of the public good that a new library would bring.

Summary of Cabinet Decision

- (i) That the contents of this report be noted.

- (ii) That Cabinet agreed in principle to the appropriation from Housing to Planning purposes in compliance with a S.122 of the 1972 Act and the subsequent use of the City Council's powers under S.237 of the 1990 Act to override rights to light of neighbouring properties infringed by the Luxborough Library and residential unit development massing under planning permission Ref: 13/08401/COFUL.
- (iii) The Cabinet delegated and authorised the Executive Director of Growth, Planning and Housing in consultation with relevant Cabinet Members to obtain all necessary information and to make a reasonable decision as to whether to implement S.237 by appropriating the land from Housing to Planning purposes taking into account all the facts and risks in consultation with the Head of Legal and Democratic Services and thereafter to delegate and authorise the Head of Development to take all necessary steps to implement this decision including finalising terms to appropriate the land referred to above.
- (iv) That the Executive Director of Growth, Planning and Housing was authorised to agree the settlement of the 3 outstanding rights of light claims as identified in Appendix 4 of the report together with associated fees following consideration and comment by the Cabinet Members and thereafter delegated authority to the Head of Development in conjunction with the Head of Legal and Democratic Services to formalise the agreements by Deed.
- (v) The Cabinet noted that settlement of rights of light compensation payments and associated fees for this scheme made to date.

Reasons for Decision

As outlined previously, the risk of injunction arising from the "rights to light" held by neighbouring owners potentially interfered with by the development, means that the approved scheme may not proceed unless the City Council resolves to exercise its powers to override these rights through appropriation and through the use of S.237 of the 1990 Act to facilitate the development.

There is a compelling case in the public interest to facilitate this development and as demonstrated by the Council securing planning permission and procuring a delivery partner to deliver this community facility, there is a reasonable expectation that the scheme will proceed. Although as outlined above, this cannot be delivered simply through the granting of planning permission. In balancing the benefits of the development and the concerns of those whose rights it is proposed to override, there is clear evidence that the public benefit outweighs the private loss.

Accordingly, it was agreed that the land at Luxborough Street is appropriated from housing to planning purposes under S.122 of the 1972 Act so as to engage the provisions of a S.237 and thereby authorise the development be carried out notwithstanding the fact that it involves infringement of rights to light.

7 CLOSE OF MEETING

The Meeting ended at 7.25 pm

CHAIRMAN: _____

DATE _____