

Minutes of the SPECIAL meeting of the AUDIT COMMITTEE held on 22 MARCH 2021 at 7.00 pm

**Present:** Councillor P Cannon (Chair)  
Councillors Bint (Substituting for Councillor Gilbert), R Bradburn, Lancaster, Legg, Minns, Montague, Petchey (Vice Chair), Rankine and Wales and Independent Members Mr W Bush and Mr I Farookhi.

**Officers:** T Aldworth (Deputy Chief Executive), P Thomas (Interim Director, Planning, Strategic Transport and Placemaking), D Wilkinson (Chief Internal Auditor), P Brown (Head of Democratic Services) and D Imbimbo (Committee Manager)

**Also Present:** Councillors Carr, A Geary and Hosking and Mr I Kirby (Independent Auditor) C.Co.

**Apologies:** Councillor Gilbert (Vice Chair), substituted by Councillor Bint.

### **AC23 CHAIRS WELCOME AND INTRODUCTION**

The Chair welcomed Members and Officers to the meeting, he stated that the meeting was being held remotely and would be broadcast live on YouTube and explained the procedures to be adopted.

The Chair made the following statement in respect of Pre-determination on behalf of all Committee Members;

‘I wish to put on record that members of the Committee, including myself, will have previously participated on debate in relation to this matter in a variety of forums.

Councillors have previously received training on the concept of predetermination and bias and the effect this could have on a decision. Section 25 of the Localism Act provides that a Councillor should not be regarded as having a closed mind because of something they previously did or said, which might have indicated what view they might take. Therefore, having participated in and/or voted on this subject at previous meetings itself does not in itself make Councillors predetermined, provided that they come to the matter with an open mind.’

### **AC24 DISCLOSURE OF INTERESTS**

None were disclosed in addition to the general statement made by the Chair.

### **AC25 SUSPENSION OF COUNCIL PROCEDURE RULES**

RESOLVED –

That Council Procedure Rules 9.1, 9.2, 9.4, 9.7,9.8,9.10 and 9.11 in respect of Public Participation; and 11.1, 13.1, 13.2, 13.3 and 13.5 in respect of motions and amendments be suspended for the duration of the meeting.

**AC26**

**AUDIT REVIEW OF PRELIMINARY FINDINGS OF THE M DORFMAN REPORT ON WAREHOUSE REDEVELOPMENT AT 1 YEOMANS DRIVE, BLAKELANDS**

The Deputy Chief Executive told the Committee that Mr Dorfman had not completed his report but anticipated doing so by the middle of May. It was noted that a copy of a letter from Mr Dorfman setting out the position was included in the Committee papers, it was noted that the further delay had been as a result of the complimentary review of daylight, shadowing and loss of light that had been commissioned.

The Chair welcomed Mr I Kirby of C.Co. Independent Auditors, and invited him to present his report.

Mr Kirby gave a presentation setting out his work, conclusions and recommendations as set out in the Committee report. Mr Kirby also summarised the responses he had given to a number of questions received from interested parties prior to the meeting. The Committee was told that these had been published earlier in the day.

The Committee heard from 3 Members of the Public, (Mrs Scholefield, Mr Herman and Ms Watson), who in the light of the findings by Mr Kirby, and the ongoing review being conducted by Mr Dorfman, urged the Committee to cancel any further work by Mr Dorfman and commission a new report to fully investigate the issues.

In addition Mr A Herman told the Committee that he was aware that a member of the Committee had made contact with the Local Government Association to discuss finding an Independent Auditor qualified to review the preliminary findings by Mr Dorfman that he had presented to the Committee on 1 December 2020, and stated that he believed that the Councillor in question should declare him or herself as predetermined and not take part in the debate.

Councillors Carr, A Geary and Hosking also expressed concerns in respect of the delays in receiving the report from Mr Dorfman and what would seem to be a series of failings in his investigation, and, based on the conclusions drawn by Mr Kirby, asked the Committee to seek a new investigation from someone that the residents of Blakelands could have more confidence in. Councillor A Geary also called on the Councillor that had contacted the LGA to make an appropriate declaration. Councillor A Geary also commented that despite offering to speak with Mr Dorfman following the meeting on 1 December 2020 he had not heard from him.

Following a short adjournment Councillor R Bradburn stated that he had made contact with the Local Government Association to seek advice in respect of the availability of suitably qualified Auditors to review the preliminary findings presented to the Committee in December, he stated that he had done so to assist him in preparing a motion for submission at the Audit Committee meeting of 1 December 2020 but had not received a response. He stated that he did not consider himself pre-determined or conflicted but in order to ensure the integrity of any decision taken by the Committee in respect of the matter being considered he would withdraw from the meeting.

The Chief Internal Auditor, in response to a question from Councillor Carr, reminded the Committee that the purpose of the meeting was to consider the report from Mr Kirby and decide whether to seek the final report from Mr Dorfman, as is proposed within the report from Mr Kirby, and then consider the full findings and the evidence that they are based on. The Committee was reminded that it was able to make whatever recommendations it saw fit based on any conclusions it draws from that report, however before the Committee was able to make any recommendations it would need sight of the final report should the Committee wish to take that course of action.

The Chair told the Committee that to enable a debate he would propose a motion in the terms 'That the Audit Review of the Preliminary Findings of the Dorfman report be noted and that the Audit Committee make any recommendations as to the next steps' Councillor Bint formally seconded the motion.

Councillor Bint stated that since the meeting of the Committee on 1 December 2020, emails had been seen from the Applicant to the Chief Planner seeking a more amenable officer be assigned the writing of the original Committee report when it was clear the original case officer was proposing to recommend that the application be refused. There was no evidence that the reason for the change of Officer was a 'rebalancing of workloads'. Councillor Bint stated that he believed that on the balance of probability the only conclusion he could draw for the reallocation of the writing of the original report was that it was for completely improper motives. He stated that he believed that Mr Dorfman's conclusions were that the initial report presented to the Development Control Committee was biased in favour of the applicant in several respects. There was also evidence that this bias was present in other reports on other sites and in respect of enforcement actions. There was however no evidence that the Committee had realised the extent of the distortions. It would appear that Mr Dorfman had disregarded that information. The only conclusions Councillor Bint stated that he could draw was that the case officer set out to mislead the Committee and seemed to have

succeeded. He stated that he believed the decision taken by the Development Control Committee was unsound, defective, unjust and unlawful.

Councillor Bint further commented that nothing new had been provided to suggest how the decision notice issued varied so dramatically from the decision of the Development Control Committee or how the variation in the decision notice had been concealed from Councillors and senior Officers. There was also no information to explain how the second case officer had been able to destroy all important emails between themselves and the developers. It was further commented that there had been no new information to suggest how the Contractual reporting details between Mr Dorfman and the then Director of Planning were concealed from residents, The Audit Committee, other Councillors and apparently from senior Officers of the Council for in excess of a year.

Councillor Bint suggested that the 'brief' given to him was too narrow as was that given to the Internal Audit in respect of the initial investigation. This raised questions in respect of what brief had been given to Mr Dorfman.

Councillor Petchey stated that he believed that Mr Dorfman had the skills to conduct a review, however had not yet stopped gathering more information as it was presented to him and therefore had not identified a point when to stop and draw up a report. He believed that in line with the recommendations presented by Mr Kirby the Council should manage Mr Dorfman and have him complete the report.

Councillor Rankine expressed concern that Mr Dorfman as a Planning expert was not necessarily qualified to report his findings as an 'editor', it was a concern that as a technical expert Mr Dorfman was not qualified as a behavioural expert, the audit conducted by Mr Kirby had identified that Mr Dorfman had not demonstrated any skills in terms of document management and the ability to evidence his findings. He stated that he did not believe that continuing with the report from Mr Dorfman would satisfy the residents of Blakelands or answer the more important wider questions the Committee was seeking answers to.

Councillor Montague stated that he was concerned that the scope of the report requested from Mr Dorfman appeared to be unclear and had grown over time, and it was his view that the findings presented by Mr Kirby supported that view.

The Chair invited members of the Committee to submit motions and recommendations to the Committee Manager to be displayed for the

benefit of the Committee as a whole, he called an adjournment whilst this was carried out.

On resuming the meeting;

Councillor Bint, seconded by Councillor Lancaster, proposed the following motion;

Members of the Committee indicated that there were some elements that they could support and others that they could not and therefore asked that each clause was voted on individually and the outcomes of those votes form the final resolution of the Committee. The outcomes were as detailed below;

“The Committee recognises and welcomes the introduction of the Planning Improvement Board, intended to create a Planning Service that everyone in MK can trust and be proud of.”

On being put to the vote the clause of the motion was carried.

“The Committee recognises that a big percentage of all planning applications, appeals and enforcement matters are dealt with in a proper and timely way, and thanks the officers involved for this important work.”

On being put to the vote the clause of the motion was carried.

“The Committee believes that, on the balance of probabilities and based on all the evidence presented to it so far, the re-allocation of the Warehouse planning application from Case Officer 1 to Case Officer 2 was done improperly, to help ensure a recommendation that permission should be granted.”

On being put to the vote the clause of the motion was lost.

“On the balance of probabilities and based on all the information presented to it so far, this Committee finds that the officer report to DCC presented an unbalanced, "over-flattering" assessment of the proposed development, resulting in an unsound, improper and unlawful decision by DCC.”

On being put to the vote the clause of the motion was lost.

“The Committee recommends the Council should seek to recompense the affected residents for the loss of amenity and loss of property value as well as for the stress and distress they have suffered.”

On being put to the vote the clause of the motion was lost.

Councillor Rankine seconded by Councillor Bint, proposed the following motion;

“This committee notes that the public has lost confidence in the ability of the Dorfman report to fully address their concerns and that the limited peer review has failed to provide the necessary reassurances”

On being put to the vote the clause of the motion was lost.

“In order to restore trust, the committee recommends that the Dorfman report be set aside and a completely new independent audit is commissioned to comprehensively examine all areas of concern. This new audit should be carried out by a recognised international audit firm and should be procured, facilitated and overseen by Council’s Chief internal Auditor”

On being put to the vote the clause of the motion was lost.

Councillor Petchey seconded by Councillor Legg, proposed the following motion;

“Notes the report from C.Co.”

On being put to the vote the clause of the motion was carried.

“Notes the report’s conclusions that Mr Dorfman has the planning knowledge and skills to be able to reach an independent view on the matter.”

On being put to the vote the clause of the motion was carried.

“Notes the report’s conclusion that Mr Dorfman has reached conclusions based on the evidence he has taken and that they are based on his professional opinions.”

On being put to the vote the clause of the motion was carried.

“Notes the report’s concern over the continued expansion of scope and continued input into the report.”

On being put to the vote the clause of the motion was carried.

“Acknowledges that Mr Dorfman has a desire to answer as many questions as possible, but that in doing so further delays to the report have been required.”

On being put to the vote the clause of the motion was carried.

“Asks Mr Dorfman to concentrate on completing his review and setting out the evidence base for his conclusions (Report recommendation R1).”

On being put to the vote the clause of the motion was carried.

“Notes the recommendation of the report that administrative support would assist in this request and asks the Deputy Chief Executive to

liaise with Mr Dorfman on how this could be undertaken without compromising the independence of the report (R4).”

On being put to the vote the clause of the motion was carried.

“Asks the Deputy Chief Executive, the Interim Director of Planning and Transport and the Cabinet Member for Planning to provide a report to the next Audit Committee on the impact of the Planning Improvement Board and its work (R2 and R5).”

On being put to the vote the clause of the motion was carried.

“Notes the report’s categorical statement that at no point has any current officer of MKC sought to improperly influence the report.”

On being put to the vote the clause of the motion was carried.

“Notes the further considerations in the report and asks the Head of Audit and Risk to bring forward a set of proposals at the appropriate time on any improvements that can be made to the future management of projects.”

On being put to the vote the clause of the motion was carried.

Councillor Montague seconded by Councillor Minns, proposed the following motion;

“Notes that many of the concerns from stakeholders have arisen from lack of clarity around the specific scope of ‘The Dorfman Report’ and that the scope appears to have crept and changed over time.”

On being put to the vote the clause of the motion was carried.

“Notes that many of the positive comments of the C.Co report can be attributed to it meeting, and sticking within the boundaries of, a tight scope.”

On being put to the vote the clause of the motion was carried.

Therefore requests that specific consideration of FC1 from the C.Co report is given high priority by officers when considering responses and actions arising from the C.Co report.

On being put to the vote the clause of the motion was carried.

RESOLVED –

That the Committee;

1. Recognises and welcomes the introduction of the Planning Improvement Board, intended to create a Planning Service that everyone in MK can trust and be proud of;
2. Recognises that a big percentage of all planning applications, appeals and enforcement matters are dealt with in a proper and

timely way, and thanks the officers involved for this important work;

3. Notes the report from C.Co;
4. Notes the report's conclusions that Mr Dorfman has the planning knowledge and skills to be able to reach an independent view on the matter;
5. Notes the report's conclusion that Mr Dorfman has reached conclusions based on the evidence he has taken and that they are based on his professional opinions;
6. Notes the report's concern over the continued expansion of scope and continued input into the report;
7. Acknowledges that Mr Dorfman has a desire to answer as many questions as possible, but that in doing so further delays to the report have been required;
8. Asks Mr Dorfman to concentrate on completing his review and setting out the evidence base for his conclusions (Report recommendation R1);
9. Notes the recommendation of the report that administrative support would assist in this request and asks the Deputy Chief Executive to liaise with Mr Dorfman on how this could be undertaken without compromising the independence of the report (R4);
10. Asks the Deputy Chief Executive, the Interim Director of Planning and Transport and the Cabinet Member for Planning to provide a report to the next Audit Committee on the impact of the Planning Improvement Board and its work (R2 and R5);
11. Notes the report's categorical statement that at no point has any current officer of MKC sought to improperly influence the report;
12. Notes the further considerations in the report and asks the Head of Audit and Risk to bring forward a set of proposals at the appropriate time on any improvements that can be made to the future management of projects;
13. Notes that many of the concerns from stakeholders have arisen from lack of clarity around the specific scope of 'The Dorfman Report' and that the scope appears to have crept and changed over time;
14. Notes that many of the positive comments of the C.Co report can be attributed to it meeting, and sticking within the boundaries of, a tight scope; and



15. Therefore requests that specific consideration of FC1 from the C.Co report is given high priority by officers when considering responses and actions arising from the C.Co report.

THE CHAIR CLOSED THE MEETING AT 9:59 PM