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24 June 2014

Dear Councillor

I am now able to enclose, for consideration at the meeting of the **SCRUTINY (POLICY AND PERFORMANCE) COMMITTEE** on Monday 23 June 2014 at 6.00 pm, the following reports that were unavailable when the agenda was printed.

- 5 **SCRUTINY OF THE DOVER TOWN INVESTMENT ZONE (DTIZ) PROJECT**
(Pages 2 - 14)

To consider the attached report of the Chief Executive.

Yours sincerely

Chief Executive

List of Questions – DTIZ Scrutiny

Monday 23 June 2014 at 6.00pm

Date	Name	Question(s) to be asked	Answers
15/5	Ms Tracy Whiteaker	<p>Q1. Is there still any need for the huge LED screen proposed for the Travel Lodge site as it was meant to accommodate aerials as apparently they are now not necessary?</p> <p>Q2. Are the buildings at the seafront end of Bench Street going to rebuilt?</p> <p>Q3. I have been told that the owner of the County Hotel has been informed that his building will not be knocked down till September 2015. Is this true?</p>	<p>Q1. We are reviewing with the telephone operators their current operational requirements as they have changed over the last few years as technology (4G etc) has moved on, and the number of operators have merged. If the operators that need relocating find more attractive alternative locations then the need for the mast/Led screen can be mitigated.</p> <p>Q2. These properties which are not in the Council's ownership are located outside the DTIZ site so nothing to do with this project</p> <p>Q3. A CPO inquiry date has now been proposed by the Planning Inspectorate, and the outcome of that inquiry (and the legal process's that follow it) will determine the transfer of ownership (leasehold interests), the closure date and demolition of the County Hotel.</p>
15/5	Mr Terence Clear	Q4. Why does the DDC not think that it is appropriate to be transparent with the people it represents?	Q4. It is not accepted that DDC has not been transparent with the people it represents. The chronology attached to the Scrutiny Committee report details when matters have been reported through the lifespan of the project. Inevitably through this process there will be occasions where business and financial matters prevent this from taking place in public. In these circumstances, the outputs have informed the planning and other processes going forward.

07/06	Mr Graham Morris	<p>Q5. (REF GJM-1) I would like to know, in the form of a simple Gantt chart with key milestones identified, the programme / plan for completion of the DTIZ as a project.</p> <p>Clarification: Start date to be the submission of the CPO.</p> <p>By completion I mean the accepted norm of when the whole of the DTIZ site for entertainment, food, retail, housing and hotel will be brought into full operational use (ie occupied by tenants). This should include any staged introduction of the project phases.</p> <p>Any Gantt chart should reflect the key deliverables & milestones, not detailed further.</p> <p>The key deliverables would be demolitions, build of car park, individual or grouped units etc as detailed in the latest planning applications. Milestones would be CPO, site clearance, site handover to the developer, occupancy of individual units etc.</p> <p>Q6. (GJM-2) Part 1 - Please outline the original business case cost benefit analysis for this development.</p> <p>Part 2 - Please quantify the DDC spend profile for this project. This may be in the form of a lump sum up to the end of the financial year 2012/13 then a yearly planned sum over time till the completion of the project (as described in my question GJM-1). At the end quoting a total target sum for the completion.</p> <p>Clarification - This spend will include all money spent, including grant money etc from external sources to the DDC's own budget (these sums to be identified separately as lump sums from each funder, but not detailed breakdowns).</p>	<p>Q5 – Part 1 - A CPO inquiry date has now been proposed by the Planning Inspectorate. The outcome of that inquiry (and the legal process's that follow it) will define the date of acquisition of the outstanding land interests that will enable the comprehensive development to progress.</p> <p>As stated by John Laker in the local press, "it is anticipated that the scheme will open late spring/summer 2016," and we believe that this can still be achieved subject to a successful and speedy CPO process.</p> <p>Q6.1. An independent S123 LGA valuation was obtained which concluded the commercial arrangements represented the best value reasonably obtainable. Additionally, a detailed scheme appraisal was undertaken by the South East England Development Agency (SEEDA) to justify the case for their funding support.</p> <p>Q6.2. The DDC and external spend profile for the project is set out in the answer to an earlier Freedom of Information Act question. A further £140k has been incorporated in the 2014/15 budget. The anticipated yearly expenditure is defined, along with all other projects, on an annual basis around the expected project needs and forms part of the Council's budget process. It should also be noted that Bond City Ltd (including Asda), have also expended substantial</p>
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		<p>Part 3 - With the Contract with the developer agreed, following an appropriate tender process(?), there is no longer any commercial sensitivity. Please confirm the DDC annual income from this contract (for it's lifetime).</p>	<p>monies, in excess of £2million, since their involvement as the Councils partners. (This excludes all the companies' directors/employees time and overheads which are not charged through the process).</p> <p>Q6.3. The Council will receive a share of profits from the scheme rather than an annual income. There is commercial sensitivity to all financial figures..... as they relate to outstanding land acquisition costs, existing/future tenants rental levels and incentive packages, building contract tender prices, and completed investment values....some of which are already governed by legally binding confidentiality clauses (land acquisition and Anchor store pre-lets etc.). A compliant procurement process was followed and an independent S123 LGA valuation was obtained which concluded the commercial arrangements represented the best value reasonably obtainable.</p> <p>Q6.4. The need for the regeneration of the town centre has been articulated through the planning policy framework and the range of benefits arising from the scheme will be referred to at the CPO Inquiry as part of the case for the regeneration of this area.</p>
23/06		<p>Q18. Risk & Opportunity Register</p> <p>All projects should have a risk & opportunities register if they are managed professionally. Considering the importance of this development project to the successful regeneration of Dover this would be considered a mandatory requirement for a managing the project. This question relates to the information</p>	

	<p>on the DDC Risk Register, which may duplicate some of the developers risk register, for this Development Project.</p> <p>Question</p> <p>Part 1</p> <p>What are the top 10 risks each for</p> <ul style="list-style-type: none"> • the successful delivery of the project • the longterm future success of the development • the future of the existing Town Centre (shopping, empty shops etc) where the Town Centre is considered to be from the Town Hall down to Queen Street and the mitigation measures that have been identified against each of these risks? <p>Part 2</p> <p>What were the top 10 risks that have been closed out on the Risk Register and how were they mitigated?</p> <p>Part 3</p> <p>What are the top 10 (new) opportunities identified on the project (and the current Town Centre) and how are they being managed to achieve successful outcomes?</p> <p>Q19. Phased Construction</p> <p>Although the DTIZ has had 3 recognised phases of Hotel, Retail Development and Housing in the past this has not been changed to recognise the new change in profile with a mixed entertainment, food & retail core to the main part of the development.</p> <p>Even the development at Buckland Mill has recognised the weak demand for housing and retail in Dover at a presentation to the Dover Society this year and phased it's development to meet the market demand.</p>	<p>Q18 – Part 1 – The risk register is not a public document and cannot be disclosed.</p> <p>Q18 – Part 2 – This is confidential information.</p> <p>Q18 – Part 3 – This confidential information.</p>
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		<p>Question</p> <p>Part 1 Why can't the DTIZ development be re programmed to phase in the Cinema (and its supporting food outlets) ahead of the weak demand for retail units?</p> <p>Part 2 Why have the DDC chosen to bring the Housing development foreword to start the project, when it was an agreement at the planning approval stage that this element be built last?</p> <p>Part 3 Why has the DDC chosen to fund the housing element of this development when it is defined as a deliverable of the developers? This places the burden of cost on the Council Tax payers when the DDC are consistently pleading poverty to deliver other responsibilities around the Town/District.</p> <p>Clarification The DDC response to Q2&3 will be a test of their honesty and credibility. Please don't use the pitiful excuses published in the Dover Express.</p>	<p>Q19 – Part 1 – This is a comprehensive development proposal (there is evidence of positive retail take-up).</p> <p>Q19 – Part 2 – There is a separate planning consent for the residential units and the Development Agreement permits this to be implemented by the Council.</p> <p>Q19 – Part 3 – It is not the responsibility of the developer to deliver this element.</p>
14/5	Mr Alan Shirley	<p>Q7. Given the public statements made by the Leader of the Council that the process of petition and public scrutiny is "counter-productive; does he continue to hold this view and, if so, would he please explain the rationale behind his comments?</p> <p>Q8. What academic, professional and relevant experience based qualifications for commercial inwards investment projects exist within the DDC Regeneration Team?</p>	<p>Q7. LEADER</p> <p>I will comment further at the end of the proceedings as it will then be apparent whether this process continues to be counter-productive.</p> <p>Q8. DDC has an appropriately qualified and experienced team engaging on a wide range of projects across the district. In the case of large</p>

		<p>Q9. What is the business relationship between Bond City, Stonehouse Estates and Laker Developments and what is the reason for the financial loss experienced by Bond City in their latest reported accounts?</p> <p>Q10. As a result of a Freedom of Information request made to DDC earlier this year, it transpires that there are no performance criteria in place between DDC and the "Bond/Laker" Group of companies. Given DDC have effectively engaged with this group twice and the DTIZ remains a waste-land, is it right to assume that:</p> <p>a. DDC's selection and retention criteria have significantly failed?</p>	<p>scale, complex regeneration projects in the district internal resources have been supplemented by engaging experienced external development support services where appropriate.</p> <p>Q9. Bond City Ltd is an SPV company, whose sole purpose of trade is to carry out the redevelopment of Dover town centre. It is part owned and guaranteed by Stonehurst Estates Ltd (not Stonehouse Estates!), while Laker Developments (John Laker is also a shareholder of Bond City Ltd) provide development support services to Bond City. It shows a financial loss in its latest set of accounts as its sole business is to redevelop Dover , so all monies expended by it (with no return to date) would appear as expenditure going out.... and therefore a loss.</p> <p>Q10. In response to an earlier Freedom of Information Act question, it was confirmed that there are no on-going performance reviews available in the public domain. However, DDC and Bond City Ltd have a legally binding Development Agreement (DA) with targets and milestones all of which are being achieved. The DA sets out clear roles and responsibilities and timescales and includes financial arrangements which allow the council to enjoy a share of profits generated by the project.</p> <p>Q10a. No, developments of town centre schemes of this type are an extremely complicated and long term process, with significant progress having been made to date.</p>
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	<p>b. That the limited experience of similar developments by the “Bond/Laker” group has in fact been a major deterrent to the success of this project?</p> <p>Q11. Costs:</p> <ul style="list-style-type: none"> a. What is the annual cost (including on-costs) of DDC’s regeneration team and, of this amount, approximately what percentage can reasonably be apportioned to the DTIZ project? b. What is the total salary and on-costs of DDC’s regeneration team that can reasonably be proportioned to the DTIZ project over the life of the project? <p>Q12. Capital:</p> <ul style="list-style-type: none"> a. It is understood that the capital costs incurred to date on this project are in the region of £8.2m and that a figure in excess of £2m of this total has been met by DDC. Are the assets acquired all present on DDC’s balance sheet irrespective of the source of funding? b. Are any assets that were acquired by funding sources other than by DDC held on the asset registers of those entities and, if so, can any of these assets be disposed of without the agreement of DDC? <p>Q13. There were four respondents to the tender for</p>	<p>Q10b. No, Clive Lynton (Bond City director/shareholder) and John Laker (shareholder) have extensive experience in mixed use inner city development projects (over 50 years between them), and have completed some of the UK’s most complex town centre regeneration schemes; Islington, Greenwich, Kidderminster, Bury St Edmonds, York, Boston and many others.</p> <p>Q11a. £613K – 13% [An error showing £613 without the 'K' on the original draft was verbally corrected at the meeting]</p> <p>Q11b. £1,121,986</p> <p>Q12a. Yes.</p> <p>Q12b. No.</p>
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	<p>partnership on this project, two of which subsequently withdrew. Can DDC confirm that they did not simply appoint the strongest tender respondent when, in fact, none were suitable?</p>	<p>Q14. The people of this town are right to expect a world's best practice development at St.James. However, it seems that there is close to zero interest from high class retailers and to date, a cinema, a family café and a food hall is all we have to show for years of endeavour. Should not Council consider cancelling all contractual arrangements with the Bond/Laker Group over their singular failure to deliver a single retail partner after many years and, instead, seek to engage with entities such as Westfield Trust who have experience of world leading developments with over 100 major retail sites including 5 in the UK, most recently at the Olympic site in Stratford?</p>	<p>Q13. The track record of Bond City's directors/shareholders is exemplary both in terms of regeneration schemes completed in this country, and their commitment in both investment/time to Dover throughout difficult economic times.</p> <p>The independent advice received by the council at the time the tenders were returned was that the proposals returned by the Bond group represented the only compliant tender. There is no evidence to suggest, even with the benefit of hindsight, that any other decision would have led to a swifter outcome.</p> <p>Q14. Unfortunately this question shows the limited knowledge of Mr Shirley in the complex industry of the current property redevelopment/regeneration industry in the UK.</p> <ol style="list-style-type: none"> 1. You sign up the anchor tenants first (M&S, Cine UK, F&B)....this then encourages other retail/restaurant occupiers to sign up...discussions are on-going with a substantial number of occupiers for the remaining units and we are confident that the scheme will be substantially pre-let by the end of the year. 2. Mr Shirley contradicts himself when he says the council should cancel their contractual arrangements with Bond City Ltd over their "singular "failure to deliver a single retail partner after many years.....what are the signed up anchor occupiers then?
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O	18/6	Mr Ray Newsam	<p><u>Background</u></p> <p>Before signing the petition requesting a public meeting on DTIZ I checked the DDC website to look at minutes of meetings for details of what had been discussed previously. The obvious place to start was the Project Advisory Group (St James's Area Development), a Cabinet Committee.</p> <p>Clicking on the link 'Browse Meetings and Agendas for the Committee' brought up, and still brings up on 18/06/2014, "No Project Advisory Group (St James Area Development) meetings are available for browsing."</p> <p>A FOI request on 23/04/2014 for details of meetings and attendees of this committee and its predecessors with a similar remit showed there have been 11 meetings of such groups between 1999 and 2011. A subsequent FOI request for minutes of these meetings has not been fulfilled within the 20 working day limit expected, with no reason yet being given.</p> <p>The subsequent FOI has not been answered within the 20 day period due to the volume of FOI information being received. It is anticipated that an answer will be given in the next few days.</p>

		<p>Q15. Does DDC understand that non-publication of even the fact that these meetings [previous project meetings on the DTIZ] have taken place gives the impression that something is being hidden from the public that they have a right to know?</p>	<p>Q15. DDC appreciates that as much information as can be made public should be made public. There are though occasions when this is not possible. The project meetings are such occasions which have informed the Executive and the Leader on the early stages of development of the schemes which has then led to full participation with key stakeholders and agencies and the public through the design and planning processes that have followed.</p>
18/6	Lesley Richmond	<p>Q16. Dolphin House along with other buildings were purchased using SEEDA funds. This we were told was needed to complement the DTIZ in case of further development/Changes to the DTIZ plan. The properties are managed by DDC property services. What happens to the revenue earned from rents and leases on these properties?</p> <p>Q17. We rent garages from DDC within the Dolphin house block. With the exception of two garages facing Flying Horse lane, Tim Ingleton advised us that Dolphin House will not be included in the DTIZ plan. However property services are advising us that the garages will be demolished to help "enhance the area". Can they do this when it is not on the DTIZ plan and what about the loss of revenue from the garage rents?</p>	<p>Q16. The revenue earned from the rents (and costs arising from management of the buildings) is held in a regeneration account.</p> <p>Q17. Yes, the garages can be demolished and the loss of revenue would be offset against any wider benefits.</p>
23/06	To be asked by Cllr Mills on behalf of the following people: Veronica Shirley	<p>Q20. Which major retail chains have been approached to take space in the St.James Development and why have each of them declined?</p>	<p>This is confidential.</p>

	Valerie Brown	<p>Q21. What is the process for engaging with potential retailers, how are proposals to them designed and what, if any, incentives are offered?</p> <p>Q22. How many retailers/hoteliers/restaurants/others are in the pipeline for signing up to this project and what time-frame is envisaged for their respective commitments?</p>	<p>This is confidential.</p> <p>This is confidential until public announcements can be made.</p>
	Terry Clear	<p>Q23. Why does the DDC see the need to be less than transparent with the people of Dover? [NB. Variation of Question 4 already received from Mr Clear and the Committee may wish to deal with Q23 and Q4 as a single question]</p>	See answer at Q4.
	Mike Aldridge	<p>Q24. The Leader of the Council constantly states that Council have nothing to hide. Given the absence of material press releases is this because there is really nothing to report or that the perceived need for public engagement from DDC is perfunctory as evidenced by the need for a petition?</p>	The Council has nothing to hide and has issued press releases by agreement with our development partner as progress is being made.
	C Buchanan	<p>Q25. How much more tax-payers money will DDC allow to be spent on this project if no more retailers sign-up?</p>	The scheme is progressing and is reviewed on an annual basis (see Q6 – Part 2).
	C Buchanan	<p>Q26. Will Council define the exit strategy in detail please including all necessary break-points and failed milestones that will cause the project to be abandoned?</p>	No, this is confidential.
	Karen Colyer	<p>Q27. When will the cinema be opened?</p>	<p>It is anticipated, that subject to the satisfactory processes and procedures, the scheme will open in late Spring early summer 2016 (see Q5 – Part 1).</p>
	Sarah Smith	<p>Q28. The DTIZ project, as a result of delays, will now coincide with the Dover Western Docks development. This creates a once in a generation opportunity for regeneration in Dover that must not be squandered.</p> <p>In the light of this I would ask the Scrutiny Committee to ask:</p>	

		<ul style="list-style-type: none"> • What opportunity has the public had to look at and comment on the plans? • How is the Council working with the Port of Dover (and other stakeholders) to ensure that two large regeneration schemes are properly integrated? • What test has been set of the ability of the development partners chosen by the Council to deliver a truly transformational project? <ol style="list-style-type: none"> i. Were the development partners chosen in accordance with DDC Standing Orders and Standing Financial Instructions and were the reasons for any waivers documented and examined by the Scrutiny Committee before the development partner was chosen? ii. If Paul Watkins and Tim Ingleton meet fortnightly with Mr Laker and business partner Simon Briggs, what formal method is used by the Council to oversee the project? iii. Has the Council done a company search at Companies House or company check for Bond City Ltd? 	<p>The public has had significant opportunity to look at and comment on the plans over the life span of the project including through the most recent submission of planning applications.</p> <p>DDC has a Memorandum of Understanding with DHB and has worked closely through the development of the planning framework for the Western Docks to ensure that the redevelopment opportunities are aligned.</p> <p>The development partners chosen by the Council were selected following independent assessment and have responded to the planning briefs and frameworks while developing proposals which will meet market and end user requirements (see also Q10).</p> <p>i. Yes.</p> <p>ii. Formal meetings take place on monthly basis.</p> <p>iii. Yes.</p>
23/06	G Fifield	Q29. Will Council agree to maintain the momentum created by this petition and give us details of activity envisaged for next 3	

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		months with a public meeting every quarter to brief residents on progress against plan and to continue to do this until the project is completed?	
23/06	Anonymous Question submitted via Mr Shirley (To be dealt with by the Chairman)	<p>Q30. Question to the Leader of DDC:</p> <p>Your own constitution includes this requirement of you...</p> <p>OPENNESS: You should be as open and as transparent as possible about all the decisions and actions that you take to enable residents to understand the reasoning behind those decisions and to be informed when holding you and other Members to account.</p> <p>Despite this, the public perception of your actions is that they are secretive, that your manner is not engaging and your press releases are vacuous.</p> <p>As a consequence, it is evident that the Council you lead is widely held in low esteem by residents. Do you accept responsibility for this failing and, if so, what plans do you have to engage more effectively with residents so that the requirement for petitions becomes un-necessary in the future?</p>	