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09 October 2017

Dear Councillor

I am now able to enclose, for consideration at the meeting of the **SCRUTINY (POLICY AND PERFORMANCE) COMMITTEE** on Tuesday 10 October 2017 at 6.00 pm, the following reports that were unavailable when the agenda was printed.

4 **MINUTES** (Pages 2 - 8)

To confirm the attached Minutes of the meeting of the Committee held on 3 August 2017.

Yours sincerely

A handwritten signature in dark ink, appearing to be "Nicky", is written over a horizontal line. Below the signature, the text "Chief Executive" is printed.

Chief Executive

Minutes of the meeting of the **SCRUTINY (POLICY AND PERFORMANCE) COMMITTEE** held at the Council Offices, Whitfield on Thursday, 3 August 2017 at 6.00 pm.

Present:

Chairman: Councillor K Mills

Councillors: T A Bond
R J Frost
B Gardner (as substitute for Councillor J M Heron)
B J Glayzer
P J Hawkins (as substitute for Councillor M I Cosin)
M J Holloway
S C Manion
M Rose
D A Sargent

Also Present: Councillor T J Bartlett
Mr D Foley (Dover District Chamber of Commerce)

Officers: Director of Environment and Corporate Assets
Team Leader - Democratic Support

43 APOLOGIES

Apologies for absence were received from Councillors J M Heron and M I Cosin.

44 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that in accordance with Council Procedure Rule 4, Councillors B Gardner and P J Hawkins had been appointed as substitute members for Councillors J M Heron and M I Cosin respectively.

45 DECLARATIONS OF INTEREST

There were no declarations of interest made by Members.

46 REGENT CINEMA UPDATE

The Chairman, Councillor K Mills, began the meeting by asking the Members, officers and others in attendance to introduce themselves to the public.

Director of Environment and Corporate Assets

The Director of Environment and Corporate Assets provided Members with an update on the previous recommendations made by the Scrutiny (Policy and Performance) Committee in respect of the former Regent Cinema.

Scrutiny Recommendation

Status

- | | |
|---|---|
| <p>(a) That planning officers be instructed to immediately cease providing pre-application advice to the developers of the Regent Cinema.</p> | <p>Members were advised that officers had ceased providing pre-application advice although they remained in contact with the developers.</p> |
| <p>(b) That the developer be given 3 months to submit an outline planning application and 6 months to submit a full planning application for the Regent Cinema building and, if these deadlines are not met, the Council take enforcement action in respect of the building.</p> | <p>No application, either outline or full, had been received with the 6 months.</p> |
| <p>(c) That officers be requested to investigate the heritage value of the Regent Cinema building.</p> | <p>No action had been taken as Cabinet had, pending the outcome of other actions, rejected this recommendation.</p> |
| <p>(d) That officers be requested to investigate applying for Listed Building status for the Regent Cinema building.</p> | <p>No action had been taken as Cabinet had, pending the outcome of other actions, rejected this recommendation.</p> |
| <p>(e) That an immediate inspection of the Regent Cinema building be undertaken by Officers to look at whether a Section 215 notice can be issued and a report be provided to a future meeting of the Scrutiny (Policy and Performance) Committee outlining the action taken.</p> | <p>Planning Enforcement officers had visited the site on several occasions and the site was now tidier. In addition, the owners had undertaken the work that officers had requested to be made to the site. At this point it was considered that there was no need to use Section 215 powers.</p> |
| <p>(f) That immediate enforcement action be taken to ensure compliance with the covenant on the permitted use of the Regent Cinema building.</p> | <p>This was in abeyance.</p> |
| <p>(g) That a local fire officer be requested to conduct an immediate inspection of the Regent Cinema building.</p> | <p>An inspection was undertaken and limited recommendations were made which had subsequently been completed.</p> |
| <p>(h) That the Director of Environment and Corporate Assets be requested as a matter of urgency to investigate if the condition of the Regent Cinema building is adversely affecting the Timeball Tower and take appropriate action.</p> | <p>There were no concerns in the short term about the Regent Cinema building impacting on the Timeball Tower. However, the Council continued to monitor the situation.</p> |
| <p>(i) That Officers be asked to investigate whether the correct level of business rates has been paid on the Regent Cinema building for its actual use over the last six years and the findings, including any action taken as a result, be reported to a future</p> | <p>It was confirmed that the business rates had been paid and no further action was required.</p> |

meeting of the Scrutiny (Policy and Performance) Committee.

- (j) That a report be submitted to a future meeting of the Scrutiny (Policy and Performance) Committee on the feasibility of the Council undertaking a Compulsory Purchase Order in respect of the Regent Cinema building in the event the developer does not take the requested actions.

This had been deferred until the deadline for a planning application had expired and was currently in abeyance.

It was stated that the Council had no intention of becoming a cinema operator. The former Regent Cinema building had been designated for leisure use in the Local Plan. If an offer was received from the owners of the Regent for part of the adjacent car park to the rear of the building to facilitate the development of a cinema, the Council would be prepared to give it consideration.

The Director of Environment and Corporate Assets advised that the Council had been in contact with both the Reopen the Regent Group and the developers since April 2017 and had been shown proposals for a 4 screen cinema with no residential use from the owners of the Regent. It was currently expected that a planning application would be submitted in September 2017, although it was not in the Council's control to make this happen.

The Regent had been designated an Asset of Community Value by the Council following an application and this meant that the site could not be sold without a 6 month grace period during which local community groups could make an offer to buy the site.

Councillor T J Bartlett

The Cabinet Portfolio Holder for Property Management and Public Protection, Councillor T J Bartlett, stated that he had met with the owners of the Regent and that they seemed genuine in their intent to operate a cinema on the site. Although the Council was not the owner of the Regent, it would support the owners in bringing forward proposals for a cinema.

Mr David Foley

Mr David Foley, Chief Executive of the Dover District Chamber of Commerce, was present to speak on behalf of the owners of the Regent who were unable to attend the meeting.

A planning application was expected in early September 2017 although there was still further work that had to be undertaken (such as an updated acoustic report, flood risk report, etc.) before an application could be submitted. He advised that the Chamber of Commerce had concerns about the original proposals but that the current proposals answered most of those concerns.

In summary, the proposals for the Regent were for a 4 screen cinema and a café. The seating capacity of the screens was to be as followed:

- Screen 1 – 96 seats
- Screen 2 – 97 seats
- Screen 3 – 35 seats
- Screen 4 – 48 seats

It would also be a venue for events other than films such as music and comedy.

The Chairman advised the members of the public present that the Committee had no powers to compel the owners of the Regent to attend the meeting. However, if they were to identify a date that they could attend the Committee would do its best to accommodate it.

Points Raised by Members of the Committee

The following points were raised by Members:

- In response to a question as to whether the correct business rates had been paid for the usage of the Regent building, it was stated that it was for the District Valuer to determine the level of business rates to be paid on a property. It was thought that the level of business rates charged was unchanged since its last use and the Director of Environment and Corporate Assets advised that he would investigate and report back to the Committee. It was confirmed that all business rates were paid as per the amount billed.
- That the promises previously made and not delivered by the developers had undermined confidence in the developer's latest timetable for a planning application.
- There was disappointment expressed that the owners of the Regent were not present at the meeting.
- That the Council was limited as to what it could do in respect of private property and it could not force the owners of the Regent to bring forward proposals for a cinema.
- There was concern expressed that any planning application relating to the Regent would not be fit for purpose.
- That there would be a significant cost involved to the Council if it were to proceed with a Compulsory Purchase Order (CPO).

Points raised by Members of the Reopen the Regent Group

The following points were raised by the Reopen the Regent Group:

- That meetings had been held with the Deal Society and Dover District Council since the last meeting of the Scrutiny (Policy and Performance) Committee on the matter of the Regent.

- That the developers had not made efforts to engage with local community groups and the Reopen the Regent Group would have welcomed the opportunity for input into the planning proposals.
- That a business plan would be needed for a successful CPO and without access to the premises it was not possible for a pressure group like Reopen the Regent to do this.
- That cinema operators had expressed interest in the Regent site.

Points raised by Members of the Public

The Chairman, with the consent of the Committee, invited the members of the public present to speak. The following points were raised:

- In response to a question as to what Dover District Council could do, the Director of Environment and Corporate Assets stated that the Council could make the owners maintain the fabric of the building to a set standard but it could not force the owners to open a cinema.
- In response to a question it was stated that the Council's powers under Section 215 of the Town and Country Planning Act were focussed on the impact on the public realm (i.e. its external appearance). The work undertaken in the Autumn of 2016 following discussions with the Council officers did not include interior works.
- That the purpose of the covenant was to protect value and stop the building being used for a purpose other than that it was sold for. The sale price of £385,000 reflected the requirements placed by the covenant on the use of the site. If the Council wanted to enforce the covenant, such as in the case of the building being used for another purpose, it would have to go to court to do so. The covenant existed in perpetuity on the building.
- The covenant had originally been drawn up by the Council following recommendation to the Cabinet from the Scrutiny (Policy and Performance) Committee.
- In respect of the matter of a Compulsory Purchase Order it was considered unlikely that the Council would be successful if it undertook proceedings for a CPO at this time.
- To express doubt that Mr Foley had identified the correct works that needed to be undertaken as part of the planning application process.
- In respect of a question concerning change of use of the Regent building, it was stated that any change of use would require permission.

- The Kent Museum of the Moving Image offered their support if any research was required to support the opening of the Regent as a cinema.
- In response to a question it was stated that the Council was unaware of the owners of the Regent had consulted with any cinema groups over their proposals.
- That the Council was unable to force the owners of the Regent to give people access to the site in order for them to develop CPO plans.
- That as part of the sale of the Regent the Council had not checked the purchaser's financial ability to deliver a cinema.
- Concern was expressed that the developers were either unwilling or unable to deliver proposals for a cinema. When a member of the public asked for a show of hands as to whether people believed that the owners would deliver a cinema on the Regent site, no one in attendance raised a hand.
- There was frustration expressed that the Regent site had been acquired with no clear proposals for the operation of the site as a cinema despite the covenant put in place.

Councillor K Mills asked Mr David Foley to feed back the Committee's request for engagement with the Reopen the Regent group to the owners of the Regent and the points that had been raised at the meeting.

The Chairman stated that the Scrutiny (Policy and Performance) Committee's role was to consider what recommendations it needed to make to the Cabinet with a view to trying to encourage the delivery of a cinema in Deal as quickly as possible.

RESOLVED: (a) That it be recommended to the Cabinet:

- (i) That the Leader of the Council chair and facilitate a meeting between the owners of the Regent Cinema and representatives of the Reopen the Regent Group and the Deal Society.
- (ii) That the Cabinet encourage the owners of the Regent Cinema to have regular contact with the ward councillors for Deal and local community groups.
- (iii) That a report be submitted to the Scrutiny (Policy and Performance) Committee on the feasibility, process, obstacles, costs and likelihood of success of a Compulsory Purchase Order by the Council for the Regent Cinema.
- (iv) That the Cabinet be requested to start investigating now if a potential operator for a cinema on the Regent Cinema site could be found as part of developing a viable Compulsory Purchase Order.

- (v) That officers be requested to investigate and report back to the Scrutiny (Policy and Performance) Committee on whether the correct business rates had been paid based on actual usage (i.e. as offices) for the Regent Cinema rather than based on the historic usage (as a bingo hall).
 - (vi) That in the event that no planning application for the Regent Cinema is submitted in September 2017, the owners be requested by officers to permit access to the Regent Cinema site by representatives of the Reopen the Regent Group so that they can start to develop a business case for the site.
 - (vii) That, noting the statement on behalf of the owners of the Regent Cinema that they expected to submit a planning application in September 2017, they be urged to submit a planning application for the site as soon as possible.
 - (viii) That the Cabinet reviews how the Council drafts covenants in future and investigate whether the conditions of the existing covenant on the Regent Cinema could be changed by the Council.
 - (ix) That the Scrutiny (Policy and Performance) Committee be provided with an update on the background as to how the Regent Cinema originally came to be into the Council's ownership.
 - (x) That the Cabinet ensures that safeguards (such as a covenant) are put in place if any further land such as from the neighbouring car park is sold to the Regent Cinema owners to support the development.
- (b) That in the event that no planning application for the Regent Cinema is submitted during September 2017, the owners of the Regent Cinema be invited as soon as possible thereafter to a meeting of the Scrutiny (Policy and Performance) Committee on a date at which they can be present.
 - (c) That the speakers and members of the public present at the meeting of the Scrutiny (Policy and Performance) Committee be thanked for attending.

The meeting ended at 9.05 pm.