

AUDIT & STANDARDS COMMITTEE ADDENDUM

4.00PM, TUESDAY, 14 JANUARY 2020

COUNCIL CHAMBER, HOVE TOWN HALL

Agendas and minutes are published on the council's website www.brighton-hove.gov.uk. Agendas are available to view five working days prior to the meeting date.

Electronic agendas can also be accessed through our meetings app available through [ModernGov: iOS/Windows/Android](#)

This agenda and all accompanying reports are printed on recycled paper

ADDENDUM

ITEM		Page
37	PUBLIC INVOLVEMENT	3 - 4
38	MEMBER INVOLVEMENT	5 - 8

WRITTEN QUESTIONS

A period of not more than fifteen minutes shall be allowed at each ordinary meeting for questions submitted by a member of the public.

The question will be answered without discussion. The person who asked the question may ask one relevant supplementary question, which shall be put and answered without discussion. The person to whom a question, or supplementary question, has been put may decline to answer it.

The following written questions have been received from members of the public:

(i) Procedural and Financial Governance failures on Valley Gardens Project – Rob Shepherd

“Given the issues on Page 65, agenda item 40, we're sure the committee will welcome this timely contribution.

Valley Gardens Phase 3 falls far short of the Benefits-to-Costs-Ratio threshold needed to secure public funds, but by erroneously inflating benefits more than 100%, secured substantial funds.

Two pertinent errors were communicated to Council Leader, CEO and CFO in November. No doubt you're investigating how council procedures permitted this gross failure in Financial Governance and the steps being taken to correct the problem quickly and manage reputational risk.

Given lack of feedback, we wonder what else we should do to expedite matters?”

(ii) Valley Gardens Audit- Daniel Nathan

"The audit report attached to Agenda item 40 is disappointing in the way it lacks the forensic rigour with which one can assess the validity of the numerous assertions it makes. Given that this document has taken six months to produce, I'm puzzled that there is so little supporting data. Would the Chair confirm that this committee will require the internal audit team to remedy this situation - by producing an appendix containing the evidence they used to make each assertion?"

Geoff Raw – Chief Executive
Brighton & Hove City Council

7th January 2020

Dear Geoff

I am submitting this letter under Council Procedure Rule 23.3 to be included on the agenda for the Audit and Standards Committee (A&S) meeting of 14th January 2020.

I acknowledge with thanks the work of the audit team in producing the internal audit report regarding Valley Gardens Phase 3 (VG3) dated November 2019 addressing issues raised in my letter dated 2nd July 2019. For the sake of clarity, I do not question the professionalism of the audit investigation team involved. I do however have concern with the report content that I suspect emanates from the constraints imposed on the team by A&S. I am also concerned that the scope of the investigation was limited by those constraints that resulted a narrow review of some documents and interviews with officers.

The report fundamentally fails to address my principle concern that members of Environment, Transport & Sustainability Committee (ETS) were not informed of the content of the Local Enterprise Partnership's (LEP) letter dated 1st February 2019. Such content could have been considered pertinent to deliberations. The Chair of ETS did acknowledge the letter existed, that it was being considered and the council would respond.

It was confirmed at 25th June 2019 ETS that the content had not been disclosed at 7th February ETS with the Director of EEC stating that information (excluding the LEP letter) had been supplied to Members such that they could make the "correct decision".

It is impossible for Members to make the "correct decision" if key information is not disclosed and it is not for officers to decide what they wish Members to see or not. The function of Committee is for all pertinent information to be openly and transparently shared for a proper considered decision to be made.

It is worrying that the audit report fails to address this or by omission exerts to suggest that such practice is acceptable.

Further, the audit report concludes that there was no shortfall with information that Members received regarding the status of the LEP funding at 7th February ETS. The audit report in fact repeats what the 7th February ETS report says and reaffirms that the LEP has approved the award subject to a funding agreement. The LEP however made clear the award had been approved by the Board subject to the funding agreement but ALSO subject to the decision of the Investment Committee that had not met.

Both the 2nd February ETS and audit report fail to acknowledge or inform the necessary and fundamental requirement of the Investment Committee. At the 25th June ETS the Director of EEC confirmed that the funding had not been agreed.

There is a significant difference between the LEP Board confirming approval of the funding subject to an agreement and the decision of the Investment Committee and the council portraying that the council had been awarded the funds subject to the formality of paperwork.

It is again worrying that the audit report fails to address this or by reaffirming the events at various ETS Committees or by omission exerts to suggest that such practice of being less than transparent is acceptable. It is interesting to note that the audit report introduces evidence of correspondence between the LEP and the council, yet such correspondence was not made available to Members.

I note that the audit report concludes the 2 February ETS report did properly communicate matters of funding drawdown deadlines. The audit report however includes information that whereas it appears the LEP suggest later drawdown than March 2021 might be unlikely, it is not absolute. Regardless, the council are experienced in seeking and obtaining funding from a variety of sources including the LEP and would have known this was not an absolute.

Absent the council not fully understanding this position from the outset, it should be compelled to make this clear in reports to Members as opposed to categorically stating that funding will be lost unless the deadline is met. The 2nd February ETS report did not make this clear.

It is concerning that the audit report considers omitting all funding criteria from reports to Members is not a shortfall in communication.

The Audit report reaffirms that Duke's Mound was an intrinsic part of VG3 acknowledging it would be funded from the Blackrock Waterfront project (BR). I offer no further comment on this at present given that I have recently written to the LEP copied to Central Government Cabinet members (For openness I include a copy of my letter to the LEP).

The audit report fails to address the concerns I raised regarding not just the failure of the council to conduct a full Environmental Impact Assessment but that the council has not conducted any traffic or environmental impact studies on the changes to the preferred option that includes a 5th south bound bus lane and Duke's Mound.

The audit report does confirm that traffic modelling has not been included for Duke's Mound but subsequently suggests that it has been considered. The audit report also claims that traffic modelling has been considered post consultation although at ETS officers confirmed that they did not know how traffic would move or be displaced. This is contrary to the audit report that says the council's consultants did include displaced traffic.

These are inconsistent and incompatible positions. It appears that the audit report confuses traffic modelling during the selection of preferred option 1 as opposed to the revisions to that option and Duke's Mound.

Also, Duke's Mound has not been considered at all. It has only been mentioned in respect to VG3 and BR within their respective business cases and Committee reports. It is now proposed that Duke's Mound will progress utilising BR funding. The audit report is therefore incorrect to suggest that traffic and environmental assessments have been undertaken in respect to Duke's Mound.

Regarding stakeholder engagement we note that the audit report serves to reiterate officers' assertions that consultation was extensive and sound. Outside the offices of the Town Hall it is patently obvious this is not the case not least because of the vast, consistent and tenacious lobbying of those affected by the project claiming not to have been consulted properly and fairly. This even resulted in a potential Judicial Review.

Of significant concern is the 7th February ETS report, that the audit team have repeatedly referred to, comments in paragraph 5.5 that views have been expressed that the consultation has not been adequate, that awareness was limited and that these views have been acknowledged and officers will ensure that any lessons learnt will be incorporated into future projects.

It is disappointing to note that the audit report ignores this admission and considers the approach and way the council conducted public consultation was satisfactory. It can only lead to my conclusion that the council is more interested in obtaining the answers it wants rather than seeking public opinion to formulate decisions around how the Local Authority public service wishes to serve the public.

It is also disappointing that the audit report makes several assertions and technical comments such as accident data but fails totally in providing any supporting information, clarifications, detail and data to support the content.

To that end, I regretfully have little faith, and suspect the public will have little either, that the audit report can be truly considered independent and therefore request that this Committee instructs the matter be investigated by an external body.

Yours sincerely

Cllrs. Lee Wares

