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Pages	1 of 4

Dear Geoff

Summary Findings from Joint Review of Welshpool Redevelopment

I summarise in this letter the findings of our Joint review with Internal Audit of concerns raised to us regarding the Redevelopment of Welshpool.

Background

1. A Scrutiny review of the Welshpool Gyratory System had raised some concerns concerning the general retail development in the town.
2. Certain members within the scrutiny group were concerned enough to call a meeting with the Leader of the Council to ask for a further investigation into concerns raised.
3. Two members remained concerned that the issues had not been fully explored and formally contacted the Wales Audit Office requesting an independent investigation. I have considered this request.
4. I agreed with the Director of Finance and Infrastructure that the most appropriate way to proceed would be a joint 'fact finding' review by my staff, in conjunction with Internal Audit, but led by the Wales Audit Office to ascertain if there was evidence to warrant further investigation. This review is now complete and summarised below are the key findings and conclusions.

Scope of the Review

5. The review has evaluated the concerns raised by the Scrutiny review and has assessed whether there are matters of probity that need to be pursued or followed up.

6. During the review we interviewed the two County Councillors who contacted the Auditor General for Wales with concerns, and have also interviewed officers involved with the redevelopment, including the current Chief Executive. These officers work within the Planning, Finance, Highways and Legal division of the Council.
7. The review also considered relevant documentation such as:
 - minutes of meetings;
 - correspondence between developers, senior officers and more junior officers; and
 - legal agreements and documentation (eg Section 106 Agreement).
8. Whilst this documentation was considered when forming our initial conclusions below, the work undertaken has not been a 'root and branch' review of the development process and documentation. Furthermore, we have not interviewed any former officers of the Council.

Concerns Raised

9. The concerns raised can be broadly summarised as:
 - former officers of the council may have bypassed normal governance procedures;
 - an 'undercurrent' of allegations and rumour within the Council and Welshpool itself;
 - the planning process and officers were put under undue pressure from former senior officers to progress the development in terms of both timeliness and outcome; and
 - a former senior officer left the Council and took up employment with a company involved in the purchase of land as part of the development.

Summary Findings

10. Interviews with officers from the Planning, Legal and Highways divisions confirmed that there was pressure from Senior Officers and to a lesser extent the former Chief Executive (MK), to progress the development as quickly and smoothly as possible. In general, the officers did not think that this pressure could be described as 'undue' or excessive, and did not change the actions or decisions any of the officers made. Members informed us that they had been told that one of the planning officers involved with the development had been summoned on more than one occasion to the Chief Executive's office to attend a meeting with MK and the Welshpool Town Clerk, where he was pressured to speed up and make more progress. We interviewed the officer concerned and he confirmed these meetings had taken place

and that the Welshpool Town Clerk had been unhappy with progress made. However, the officer stated that he hadn't felt any 'undue' pressure as a result of these meetings, and in fact MK had been largely supportive.

11. Our review has confirmed that both MK and a former senior officer held regular discussions with the developers and, for some of these, the minutes of meetings document their attendance and topics of discussion. It would not be unusual for the Chief Executive of a council to take a keen interest in important redevelopment and regeneration schemes and to meet with any proposed developers. The Executive Director of Organisation and Regeneration at the time has informed us that he did warn MK at one point that he needed to be mindful of the proper procedures and processes surrounding the planning applications for such schemes and could not give assurances to developers as to the outcome of the planning process. The sensitivities and perception risks around this issue were recognised by the Monitoring Officer in November 2006 in a memo to Senior Planning Officers. The memo pointed out the sensitive nature of the development and that the Head of Legal Services was 'slightly nervous about these developers meeting with the Chief Executive'.
12. Whilst this was not a 'root and branch' review of the development process and documentation, we have not become aware of any specific internal control, or governance procedures not being followed.
13. Our review of the documentation or interviews with officers or members could not identify exactly what the allegations and rumours within the Council and Welshpool were.
14. One of the concerns raised by members was that a former senior officer was involved in the agreement to sell land to Potters Waste Management before he left to work for Potters Waste Management. This land sale was not part of the Redevelopment process we have looked at, but related to the sale of the Leighton Farm Estate. The members we interviewed had been told that the agreed fee for the land was negotiated down once the former senior officer joined them.
15. We have undertaken a high level review of some documentation relating to the sale. In terms of legality, we have been informed by the Head of Legal Services that in his view due process was followed. Additionally, from the minutes of the Cabinet meeting of 5 July 2011 where the reduced fee sale was agreed, the Monitoring Officer stated: "*In my view as Monitoring Officer, if the Cabinet were minded to approve the recommendation to grant a rebate as recommended by the Portfolio Holders in their report, this would not be a decision which would give rise to or be likely to give rise to a successful challenge in a Court or Tribunal. In other words I would not regard such a decision as being illegal or beyond the powers of the Cabinet or such as to constitute maladministration. Clearly the Cabinet has the*

option to defer consideration, but any lengthy delay would appear to put the Council at risk of losing the opportunity of concluding what appears to be a properly negotiated proposal, which is in the best interests of the Council given the substantial repairing obligations associated with this property. As far as I am aware, there is no current agreement or contract in place with the prospective lessee and, therefore, he is perfectly entitled to seek this rebate in relation to matters referred to in the report. The report also makes it clear that even with this rebate the bid remains higher than the other bidders”

16. However, we do have concerns similar to those of the Section 151 Officer, minuted at the same Cabinet meeting regarding the recommendation to accept sale at a reduced level. His minuted concerns were:
- *“I am not clear on the process that has led to this recommendation.”*
 - *“The report does not make it clear whether all bidders understood that the Council would enter into post-tender negotiations.”*
 - *“The report does not contain a re-working of the cost/quality model based on the revised figures now available.”*
 - *“The report does not make it clear whether the officers involved were aware of their responsibilities under the Council’s Official Conduct policy. In particular, what control measures were put in place to ensure ‘that no special favour is shown to current or recent former employees...in awarding contracts to businesses run by them or employing them...’.”*
 - *“Without clarity on the foregoing I cannot comment on the robustness of the recommendation.”*
17. It is not clear to us why the decision was considered urgent which meant there was insufficient time to consider why the Monitoring Officer concluded the revised agreement was in the best interests of the council, whilst the Section 151 Officer raised significant concerns listed above. There is no evidence to suggest these were given proper consideration and attention.

Yours sincerely



John Herniman
Engagement Lead

cc. Ian Halstead, Chief Internal Auditor, Powys County Council