

Overview and Scrutiny Committee Report

Ward(s) affected: All

Report of Diane Owens, Monitoring Officer

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Report of an investigation by VWV LLP appointed by the Monitoring Officer for Guildford Borough Council relating to the Garden Village at the former Wisley Airfield.

Executive Summary

Cllr John Redpath, a Councillor at Guildford Borough Council ("the Council") raised certain issues with the Council. These issues related to the former Wisley airfield development and the bid to Government submitted jointly by the Council and the private sector partners.

The Council's Monitoring Officer at the time instructed VWV to carry out an investigation into those issues. VWV is a full service commercial law firm, with 82 Partners and over 350 lawyers, working across offices in Watford, London, Bristol and Birmingham. VWV have been providing legal advice to local authorities for over twenty years and have a national reputation for public sector property work, acting for both central and local government clients.

The outcome of the investigation was that VWV did not consider that the matters raised by Cllr Redpath raised any issues that needed any further action by the Council. VWV did however think there was an issue for the Council to reflect upon and this is set out in Section 5 of this report.

This report summarises the investigation, findings and suggested learning for the Council. A full copy of the investigation report produced by VWV is attached to this report.

We were subsequently requested to look into two further matters by the Committee and have produced a further report addressing those. That is also attached.

Recommendations to the Committee:

1. That the Committee notes the reports of the investigations; and
2. That the Committee considers the matter raised by the investigators for the Council

Reasons for Recommendations:

1. It is appropriate that the Committee are made aware of and note the investigation carried out by VWV and its outcome
2. VWV identified an issue for the Council to reflect upon and this is set out in Section 5

of this report. They were also asked for lessons learnt regarding the call-in issue in their second investigation and have advised these. The Committee will wish to consider whether or not they agree with these and if they do, how these matters should be taken forward

Is the report (or part of it) exempt from publication?

No

1. Purpose of Report

- 1.1 The purpose of this report is to place before Members the outcome of an investigation by VWV LLP appointed by the Monitoring Officer for Guildford Borough Council ("the Council") relating to the Garden bid at the former Wisley Airfield.

2. Strategic Priorities

- 2.1 The effective delivery of projects such as Wisley are fundamental to the Council's strategic framework. When issues are then raised in relation to the delivery of projects, it is important that they are properly investigated. This is what the Council did. Therefore although this report does not directly impact upon the Council's strategic priorities, indirectly it is significant given the importance of effective delivery of major projects to the realisation of the Council's vision.

3. Background

- 3.1 This was the second investigation commissioned by the Council into issues regarding the former Wisley Airfield.
- 3.2 The first was undertaken in 2019 by Mr Richard Lingard, a consultant with extensive experience of local government. He was commissioned to conduct an independent review of the working relationships between officers, members and Savills (agents for the developers of the Wisley site) in respect of their involvement in the application for Garden Village status for the development of Wisley Airfield.
- 3.3 A summary of Mr Lingard's report (which contained records of confidential discussions with staff members) was produced, together with a note of the Managing Director's conclusions in response. The investigation found that there had been no wrongdoing though there were lessons to be learnt.
- 3.4 This was then presented at a meeting of the Council on 9 October 2019: <http://www2.guildford.gov.uk/councilmeetings/documents/g864/Printed%20minutes%2008th-Oct-2019%2019.00%20Council.pdf?T=1>
- 3.5 In relation to this, the second investigation, VWV were formally engaged in November 2019 by the Council's former Monitoring Officer to look into a number of issues that had been raised by Councillor John Redpath with the Council.

- 3.6 The Council set out the issues raised by Councillor Redpath in the Terms of Reference to which VWV were required to work.
- 3.7 VWV interviewed Cllr Redpath in early December 2019. Councillor Redpath raised various matters during this interview which VWV sought clarification from the Council on in December 2019 as to whether or not they fell within the scope of VWV's investigation as set by the Council.
- 3.8 The Council clarified this in February 2020 and amended the scope of VWV's investigation.
- 3.9 The (amended) scope of VWV's investigation were as follows:
- a. ***"To examine, through a review of correspondence and such interviews as the reviewer considers expedient and desirable, the alleged utilisation by the Council of plans authored by Davis Landscape Architects (consultants to Wisley Property Investments Ltd) as part of the Council's submission of an application to the secretary of state for support in achieving garden village status for the former Wisley Airfield, as described more fully in the report to the Executive of 30 October 2019 and to recommend whether to:***
 - i. *take no further action; or*
 - ii. *offer specific guidance for future reference, or to adopt a change in practice*
 - b. ***To provide a general description of how a Council may act as a promotor/supporter of a Garden Village application, with a private sector land owner (including what sort of project agreements would be expected, and how the Council is both an executive and a regulatory decision maker (in the planning context), and how the law provides a framework for this decision making (with express reference to the Council's "probity in planning" code :***
<http://www2.guildford.gov.uk/councilmeetings/documents/s11456/Part%20-%20Codes%20and%20Protocols.pdf>
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 - c. ***Also:***
 - i. ***Did the Council ask Davis Landscape Architects to produce the Garden Village proposal, or was it already prepared, and used in the bid?***
 - ii. ***Did Council officers just cut and paste the Council logo or were they more involved in it?***
 - iii. ***Who instructed them to employ the consultant, and did they know that Davis Landscape Architects also worked for Wisley Property Investments Ltd?***
 - iv. ***What other Wisley related documents have the Council worked on jointly or otherwise with consultants that are also advising Wisley Property Investments Ltd? "***
- 3.10 These Terms of Reference reflected the matters raised by Councillor Redpath that the Council wished VWV to look into.

- 3.11 As already stated, VWV interviewed Councillor John Redpath. He was given a chance to review and revise the statement that he gave prior to confirmation of its accuracy. VWV also spoke to Tracey Coleman, the then Director of Strategic Services, who subsequently provided VWV with a written statement reflecting her position and that of her Department prior to her departure from the Council.
- 3.12 VWV followed this up by seeking clarification and elucidation from the Council on various points, particularly from officers in the planning department.
- 3.13 VWV were also supplied with a considerable amount of background documentation by the Council when they started their investigation.
- 3.14 Subsequent to the conclusion of their first investigation and the publication of their report, VWV were asked to look onto two further matters by this committee, namely:
- *"Circumstances and process around the bid and an explanation of what happened, e.g., how did a letter from a developer get passed between Cllrs to become a submission from SCC? Why was a Savills document passed off as a GBC document? What was the discussion between officers about this and why wasn't it discussed with Cllrs? Why was the Bid submitted so late in the day, where was the awareness of the bid deadline? "*
 - *"The late notice to the O&S Chair of the Bid and the avoidance of scrutiny/waiving of call-in to meet the bid deadline and the late addition of the item to the Executive meeting agenda. What is the learning from this episode?"*

4. Findings of the Investigation

- 4.1 The full report of the investigation carried out by VWV is attached as Appendix 1 to this report. In the light of the additional points VWV were asked to investigate, they have produced an addendum to the report addressing these two additional matters
- 4.2 VWV's findings on the full investigation are set out in Section 5 of their report. Their findings on the 2 additional matters are set out in Section 5 of the addendum.
- 4.3 The Wisley Airfield Garden Village Bid document is attached as Appendix 2 of this report.
- 4.4 In summary, the findings on the full investigation as against the Terms of Reference set by the Council were as follows:
- a. ***"Did the Council ask Davis Landscape Associates ("DLA") to produce the Garden Village proposal, or was it already prepared, and used in the bid? "***
 - i. It was agreed at an early / initial meeting between the Council and Wisley airfield development promoters that Wisley Property Investments Ltd (WPIL) would lead on producing the draft bid document which would then be passed to the Council for

comment. It was not discussed who specifically within the WPIL team would produce it, just that WPIL would provide the resources to produce the document

- b. "Did Council officers just cut and paste the Council logo or were they more involved in it?"**
 - i. It was appropriate to include the Council logo on the back of the bid. Council officers on behalf of the Council were involved in its use. The process by which the bid was signed off and consequentially the logo was applied was also appropriate. The Council had considerable input into the document and it was not until the bid document was finalised by the Council that the logo could be attached.
- c. "Who instructed them to employ the consultant, and did they know that DLA also worked for WPIL? "**
 - i. WPIL instructed DLA to produce the document as it had been agreed that WPIL would lead on drafting the bid document.
 - ii. In terms of how and when agreement was reached that WPIL would lead on drafting the bid, it was agreed at the meeting on 19 October (referred to previously) that WPIL would lead in producing the document. It was not discussed who specifically within the WPIL team would produce it, just that WPIL would provide the resources to produce the document.
- d. "What other Wisley related documents have the Council worked on jointly or otherwise with consultants that are also advising WPIL?"**
 - i. Officers advised VWV that they were not aware of any (other) Wisley related documents worked on jointly with consultants that were advising WPIL other than those referred to in the VWV report and a S106 agreement entered into with WPIL as part of the planning process.
- e. "When was the document sent to the Council from DLA and to whom?"**
 - i. The final bid document was submitted on 9th November 2018, the deadline for submitting bids to Government. The final bid document as agreed by both parties was circulated on 9 November 2018 at 15:19 within the Council for approval.
- f. "Who sent it on to MHCLG and at what time was this?"**
 - i. It was submitted at approx. 15:50 on 9 November 2018 by the Planning Officer on behalf of the Council.
- g. "Who attached the Council logos and when? "**
 - i. The Council logos were inserted by DLA in finalising the document. This was a joint document agreed by both parties and it had been agreed that this would be done once the Council had signed the document off (which it had done).

4.5 The following points should also be noted:

- i. a local authority would not have all the information needed to make a bid such as this on its own. Delivery of the bid therefore had to be a collaboration between all parties;
- ii. the bid process was not prescribed, but it was not possible to make a bid unless all parties work together as this is a voluntary

- iii. approach. The purpose of the bid was to increase the quality of the development within the garden village principles; and making the bid did not mean that successful bidders would get planning consent. A number of successful bid sites have failed during the local plan process or application stage.

4.6 In conclusion, VWV decided that the issues they were asked to look into did not raise issues that warranted further action by the Council.

4.7 In relation to the two further matters that VWV were asked to look into subsequent to their full investigation, these raised no matters of substance. VWV's findings on these two points are set out in the addendum.

5. Additional Matter

5.1 Given the nature of the findings of VWV, it was felt that the responses to the concerns raised could have been given earlier and in full. The Council had an appropriate and robust response to the concerns and could have made them.

5.2 Had this information been made public earlier, this may well have removed the (albeit misconceived) perception that there were substantive issues underpinning the production of the bid document arising from an inappropriate relationship between the Council and the promoters of the Wisley Garden Village.

6. Summary of Options

6.1 The Committee are asked to note the reports which set out the findings of the investigation carried out by VWV. The Committee are also invited to reflect upon the learning points contained in the investigation report and addendum and if they agree with VWV, consider how best they may be taken forward.

7. Conclusion

7.1 VWV concluded that the issues that they investigated did not require any further action to be taken by the Council. However there were learning points for the Council.

8. Background Papers

8.1 There are none. The investigation report of VWV is attached to this report as Appendix 1. The addendum also produced by VWV is Appendix 2.

9. Appendices

9.1 Appendix 1: Report of an investigation by VWV LLP appointed by the Monitoring Officer for Guildford Borough Council relating to the Garden Bid at the former Wisley Airfield.(July 2020)

9.2 Appendix 2: Addendum to the report of an investigation by VWV LLP appointed by the Monitoring Officer for Guildford Borough Council relating to the Garden Village at the former Wisley Airfield.(May 2021)