

Scrutiny Commission Referral Form

Referral from: Place Scrutiny Commission	To: Mayor and Cabinet - 3 March 2015
Date: Place Scrutiny Commission held on 5 February 2015	
Contact Officer: Johanna Holmes, Policy Adviser (Scrutiny)	
Subject: Comments on Cabinet report – Avonmouth and Portbury docks freehold	

Detail of referral:

1. At their meeting held on 5 February 2015, the Place Scrutiny Commission considered the Cabinet report entitled “Avonmouth and Portbury docks freehold.”
2. The members who participated in the discussion were:
 Cllr Pearce (in the chair for this item)
 Cllr Bolton
 Cllr Jackson
 Cllr Khan
 Cllr Milestone (substitute for Cllr Threlfall)
 Cllr Negus
 Cllr Windows

The Chair of the commission (Cllr Martin) was not present for this item. The Vice-Chair of the commission (Cllr Hiscott) was present but, having declared an interest, did not take any part in the discussion of the item.

Cllr Bradshaw, Assistant Mayor for Place was also present for the discussion.

3. **The draft minute of the commission’s discussion is set out below, and the Mayor and Cabinet are asked to take account of the comments of the commission before the Mayor takes a decision on this matter on 3 March** (note: the commission’s discussion took place in exempt session; however, the below draft minute of the discussion has been prepared as a “public” document, avoiding detailed reference to commercial considerations).
4. The full text of the minute is as follows:

90. Avonmouth and Portbury docks freehold – Cabinet report

The commission considered a report seeking comments on a Cabinet report (scheduled for the 3 March Cabinet).

Cllr Bradshaw (Assistant Mayor – Place) attended the commission for this item of business.

It was noted that the report contained a reference to an exempt appendix containing external valuation advice from Jones Land LaSalle (JLL). Members agreed that they wished to receive a detailed briefing from the Service Director – Property in relation to the issues covered in the exempt appendix, and accordingly, it was:

RESOLVED –

That under Section 100A(4) of the Local Government Act 1972, the public be excluded from the meeting for the consideration of this item of business on the grounds that it involves the likely disclosure of exempt information as defined in Part 1 of Schedule 12A to the Act (as amended).

The Service Director – Property then gave a detailed briefing. Points highlighted included:

- a. The principle of this freehold disposal had been agreed by the Mayor at the Cabinet meeting held on 1 April 2014.
- b. Since the “in-principle” decision taken on 1 April 2014, officers had been engaged in concluding legal due diligence, including the issue of confirming that the Council’s position as minority shareholder in the port business would not be materially changed by the freehold transfer.
- c. The external valuation advice from JLL was commercially sensitive as publication of this advice at this stage would be inappropriate prior to the legal completion of the freehold purchase.
- d. The background in relation to the assessment of the purchase price was explained in detail, including the issues around:
 - the price that the Council would reasonably expect to receive currently if the land was sold to another investor.
 - property “marriage value” considerations.
- e. In relation to the proposed freehold purchase price, JLL were of the opinion that the proposed purchase price of £10m for the freehold represented the best price reasonably obtainable to the Council for the sale of the site.
- f. The sale of the freehold would not affect the annual dividend the Council received by virtue of its current shareholding.

- g. The sale of the freehold would, however, result in the Council forgoing current entitlement to a share in any future uplifts from the development potential if these arise in the future. Scenarios tested by JLL demonstrated that the £10m price now was advantageous compared with the hope of future returns from this uplift.
- h. From the perspective of the Service Director, the proposed sale price represented the best price that the Council would be able to achieve for many decades.

Set out below is a summary of the main points raised / noted by the commission members in discussion:

- a. Cllr Negus raised a number of issues / concerns:
 - (i) The current proposal was, in his opinion, based on a short term view / realisation of £10m for this asset rather than being based on a long term, corporate view of this asset. Previous administrations had resisted previous approaches regarding the freehold disposal of this land.
 - (ii) The land had been valued as an asset for sale now / immediately. In his view, this proposal, if approved, would be a bad decision. Proper consideration was not being given, in his view, to the longer term, potential value of the land, i.e. extending over a considerable period of time. The longer term interests of the city might be better served by a participatory arrangement for future benefit, both financially and strategically.
 - (iii) It should borne in mind that in the longer term, the current controls on this land might change during the remaining 127 years of the lease due to future planning / financial / devolution changes.
 - (iv) The port was a profitable business. This deal would not permit an option for an increased share of profits. The acquisition of the freehold would make any onward sale of the freehold more attractive to prospective purchasers.
 - (v) It was important to recognise the opportunities that a well-placed deep water port would have into the future, including the opportunity to engage with the increase in marine energy activity in the Severn estuary and Cardiff Bay areas, resulting in greater port and supporting activities.
- b. Cllr Jackson commented that he accepted the JLL view about the proposed £10m purchase price representing a favourable deal for the Council at the present time. He was not convinced, however, that there was any overriding need for the Council to progress the deal at this stage.
- c. Cllr Bradshaw commented that officers had concluded the required due diligence, following on from the “in principle” decision taken on 1 April 2014. The issues relating to progressing the disposal (including the longer term considerations raised at this meeting) had been discussed in great detail by the Mayor and Cabinet members.

The Cabinet had been very keen to share as much information as possible with scrutiny members. In his view, the £10m sum that would be realised from the disposal (if approved by the Mayor at the 3 March Cabinet) would provide an opportunity / the ability for the Council for make investments that would bring real benefits to the city, on an ongoing basis. In his personal view, such investment should be focused on tackling disadvantage. It was also important to bear in mind the importance of the port generally to Bristol's economy.

- d. In response to a question from Cllr Khan, the Service Director – Property confirmed that the port company was not prepared to negotiate on the issue of the Council receiving an increased shareholding / share of profits.

At the conclusion of the discussion, at the suggestion of the Chair, it was

RESOLVED:

That (in the context of the decision due to be taken at the 3 March Cabinet), the Mayor and Cabinet be advised of the comments of this commission as detailed above and that in considering the report, the Mayor and Cabinet should in particular take into consideration and have regard to the following:

- 1. The commission was concerned that a short term political / economic gain would be made at a potentially greater long term opportunity cost, while there was no clear or immediate need or plan to use the money to be realised from the sale.**
- 2. In light of the exempt appendix (JLL valuation report) and the information provided at the meeting by the Service Director – Property, the commission was aware that the current proposal to sell the freehold for £10m represented good value / a favourable deal for the Council at the present time.**
- 3. The commission was, however, resistant to the idea of executing the sale without an urgent need to realise the £10m sum or a firm proposal for its use. Members coupled this concern with the likelihood of a considerable uplift in the value of the asset to the Council as the remaining lease term became significantly diminished (e.g. in approx. 70 years' time).**
- 4. The commission sought reassurance that the Mayor was satisfied (as the commission was not) that the Council would not potentially suffer a significant opportunity loss by disposing of a significant economic asset that potentially (and this had not been disproved to the satisfaction of the commission) had a considerable competitive advantage over other UK and European port facilities, and could therefore have a greater value than anticipated in the medium / long term.**