

Investigation into the Waterfront Development Project

by Yinka Owa – Independent Investigator

INTRODUCTION

1. In May 2020 Spelthorne Borough Council (the council) announced that following a Competitive Dialogue procurement process it had awarded a contract to Arora Group to develop the council owned site known as Bridge Street Car Park and Hanover House in Staines-upon-Thames town centre (the site) for a hotel-led mixed-use development.
2. Arora's winning bid was described in the council's press release, of 4 May 2020, see appendix 10 as set to provide a 4 star hotel with over 300 rooms, serviced apartments and residential units. In the Press release the council referred to the site as 'The Waterfront' and to the development of the site by Arora Group as 'the Waterfront Project'.
3. Resident groups and councillors raised various concerns about the way in which the contract was awarded and the proposed development.
4. Their concerns centre around the decision making by the council leading to the award of contract, the procurement process and the mass, scale and density of the proposed development particularly in the context of the surrounding conservation area and the historic buildings around the site including Staines Bridge.
5. The Council appointed me in September 2021 to undertake an in-depth investigation of these concerns.

TERMS OF REFERENCE

1. The Terms of Reference for the investigation attached to my appointment letter dated 31 August 2021 (the Initial TOR) are at appendix 1a.
2. Resident group representatives and some of the ward councillors for Staines were concerned that the Initial TOR did not go far enough to enable a thorough investigation. They wanted the terms of reference for the investigation to be 'comprehensive and robust' to reflect the wide ranging nature of their concerns.
3. The council at its meeting on 14 October 2021 passed a motion, put forward by the majority of the nine ward councillors for Staines, to amend the Initial TOR. The Amended Terms of Reference (Amended TOR) are appended at appendix 1b.
4. The Amended TOR together with the Initial TOR form my Terms of Reference for this investigation.

TIMELINE OF INVESTIGATION

1. My investigation focused on the time period between September 2017, when the council purchased Hanover House and 30 April 2020 when the council completed a Development Agreement with the Arora Group pursuant to the award of contract setting out the terms and conditions of the arrangement between the council and Arora Group in relation to the site (the relevant time period).
2. Whilst I did look at events, documentation, materials and activities of import to my investigation preceding and subsequent to the relevant time period, my main focus were those within that time period.

THE SITE

1. The site comprises the land known as Bridge Street Car Park and Hanover House in Staines town centre giving the council a combined area of more than one hectare of land and about 100 metres of river frontage making this gateway to Staines a key regeneration site. See appendix 2a and 2b for site plans.
2. The site is situated next to the historic Grade II listed Staines Bridge and adjacent to the Hythe Conservation Area including Hythe Village.

METHODOLOGY

Interviews

1. I spent over 220 hours on interviews. I conducted over forty (40) face to face and virtual interviews with councillors who had been on the Council's Cabinet and Overview & Scrutiny Committee at the relevant time period as well as ward councillors for Staines, the chair of the council's Planning Committee at the relevant time period, the Whip for the Majority Party Group as well as the Leader of the council.
2. I also interviewed representatives of resident groups, the council's Chief Executive, its Chief Financial Officer and other senior officers and consultants acting on behalf of the council who had conduct of the procurement process that culminated in the award of contract to the Arora Group.
3. I would like to thank all those who took time to meet with me and contributed to my investigation.

Site Visit

I toured Staines Town Centre and visited the site.

Documentation & Materials Provided

1. I was provided with a vast array of over 10,000 pages of documentation, materials and reports on the transaction and those relevant to it.
2. These included cabinet reports and minutes, the council's constitution at the relevant time period, details of all the bidders for the contract including evaluation documentation, minutes and notes from the dialogue sessions, the Development Agreement between the council and Arora Hotels Limited (Arora), the successful bidder and the exempt report to Cabinet on the award of the contract to Arora.
3. I was also provided with emails and other correspondence between councillors in the council's Conservative Party Majority Group which go to the heart of some of the concerns raised by resident groups and councillors.
4. Some of these documents and materials are already in the public domain like the reports and minutes. Some of them are appended to my report.
5. Some are commercially sensitive and/or confidential and have not been disclosed as a result. These include details of the procurement process including the Development Agreement and some of the correspondence between councillors on the Majority Group.

THE COUNCIL'S GOVERNANCE STRUCTURE AS AT APRIL 2020 & COMPOSITION

1. Until May 2021, the Council operated a Leader and Cabinet model of governance with the Leader appointing the Cabinet and together they discharged the executive functions of the council.
2. This model is widely referred to within the council as the 'strong leader' model of governance.
3. At the time of the Cabinet decision to award the contract to Arora, the political composition of the Council was 23 Conservative councillors, eight Liberal Democrat councillors, four Labour councillors, two Green councillors and two Independent councillors.
4. The Conservative Party had the most councillors so the Leader and his Cabinet were all from the Conservative Party Majority Group.
5. At its Annual Council Meeting on the 27 May 2021, the Council moved to a Committee System of Governance.

RELEVANT LEGISLATION

Local Government Act 2000 & Localism Act 2011

Executive Arrangements & Functions

1. The Local Government Act 2000 (the 2000 Act) introduced new executive arrangements for local authorities. It provides that the executive of a local authority must take one of the following forms:
 - Leader and Cabinet
 - Elected Mayor and Cabinet
 - Committee system, which was the only executive arrangement available to local authorities prior to the 2000 Act, was re-introduced by the Localism Act 2011.
2. The council adopted the Leader and Cabinet model of governance until May 2021.
3. The 2000 Act states that any function of the council which is the responsibility of the executive is regarded as exercisable by the executive on behalf of the Authority.
4. The 2000 Act also provides that the executive does not have to reflect the political balance of the authority. So in Spelthorne Council, the Leader and all the councillors on his cabinet were from the Majority Conservative Group.

Overview & Scrutiny Committees

1. The 2000 Act also introduced Overview and Scrutiny Committees.
2. The committee's functions include to review and scrutinise decisions made and other actions taken by the council's executive in the latter's discharge of their responsibilities.
3. It stipulates that a councillor on the executive could not also be on the Overview and Scrutiny Committee.
4. The 2000 Act introduced a separation of decision making and scrutiny of those decisions.
5. The purpose of the arrangements in the 2000 Act was to enable quick and efficient decision making and easy identification of the decision makers so they could be held to account.

Requirement for a Constitution

1. The 2000 Act provides that a local authority must have a document called a constitution (and keep it up to date) which should contain its standing orders, the procedural rules which apply to meetings of the council and a councillor code of conduct.
2. The constitution in force at the time of the Cabinet decision on the award of contract to Arora in April 2020 was that of January 2019.

The 'Strong Leader' Model

The Localism Act introduced a set term of office for leaders in the Leader and Cabinet model of governance and a prescribed process for the removal of that leader during their term of office.

Local Authority's Functions & Responsibilities

1. A local authority has a duty to discharge myriad functions and responsibilities.
2. A local authority's responsibilities can include acting as landowner, local planning authority, corporate parent on children social care matters, responsibility for adult social care, environmental services including parks and recreational facilities and bin collection and increasing responsibility for dealing with climate change and pollution.
3. The local authority must follow the statutory provisions and rules that govern the function it is presently discharging and where there might appear to be a conflict with another function or responsibility it should already have processes in place to address such potential conflict in a manner that ensures it does not contravene the law or breach its obligations.
4. As an example, from time to time, the council as landowner would apply to itself as Local Planning Authority for planning permission. In such instances, it must treat its own application as it would that of a third party and follow sound planning principles in making a decision.
5. Another example is when the council as a landowner disposes of land subject to the condition that the purchaser of that land obtain planning permission from it in its capacity as the Local Planning Authority.

THE COUNCIL'S DUTY AS LANDOWNER

Local Authority and Property Disposals - The Local Government Act 1972 & Duty of Best Value

1. Section 123 of the Local Government Act 1972 (the 1972 Act) provides that a local authority may dispose of its land as it sees fit. But it must not do so for a consideration less than the best value that can reasonably be obtained for that property unless the disposal is by way of grant of a tenancy not exceeding seven years, a short tenancy. This is usually referred to as a local authority's 'duty of best value'.
2. Consideration will usually consist of monetary and/or commercial value capable of being assessed, for example, by a property valuer.
3. The grant of a lease for 250 years by the council to Arora as part of the award of contract to the latter is subject to the duty of best value under the 1972 Act.

The Council as Landowner – Executive Function

The council in its role as a landowner is an executive function vested ultimately in the Leader in accordance with the provisions of the 2000 Act.

THE COUNCIL AS LOCAL PLANNING AUTHORITY

The Town & Country Planning Acts and National Planning Policy Guidance

1. The council acts as a Local Planning Authority (LPA) when determining planning applications.
2. When acting on planning matters, the LPA must have regard to planning laws set out in the Town and Country Planning Acts and various Regulations as well as National Planning Policy Guidance from Central Government and its own local planning policies contained in the council's own Local Plan.
3. This is to ensure that planning decisions are made on sound planning grounds and enables the council to robustly defend itself, for example, when its decision is challenged by a dissatisfied planning applicant by way of an appeal to the Secretary of State.

PLANNING NOT AN EXECUTIVE FUNCTION

1. Determination of planning applications is not an executive function and does not vest in the Leader and/or Cabinet.
2. This function rests with Full Council and is discharged through the council's Planning Committee.

The COUNCIL'S CONSTITUTION AS AT APRIL 2020

1. The constitution of the council in force at the time of the award of the contract is that adopted by the council in January 2019 (the January 2019 version of the constitution).
2. Part 1 of the January 2019 version of the constitution – headed 'summary and explanation' and at appendix 4a – summarised how the council made decisions, the role of the Leader of the council, Cabinet and other committees of the council including Overview and Scrutiny Committee as well as the role the public and council officers played in the smooth running of the council.
3. In the section headed 'how decisions are made' in the 'summary and explanation' section of Part 1 of the January 2019 constitution at appendix 4, it is stated that legally, the Leader of the council is responsible for most day to day decisions and is appointed by the council for a four year term of office.
4. It also explained that when major decisions are to be discussed or made they will first be published in what is referred to as the Cabinet Forward Plan insofar as they can be anticipated.

Access to Information Rules

Article 3 of the constitution, see appendix 4b, explained the interface between the council and the public on decision making, setting out the public's right to information and to participate in the council's decision making process.

Role of Leader

1. The role of the Leader of the council in decision making is set out further in Article 6 of the constitution headed 'The Leader of the Council' see appendix 4c.
2. This Article sets out the functions of the Leader including those that only the Leader can exercise which include the appointment of the Deputy Leader and the other members of Cabinet and preparation of the Leader's Cabinet Forward Plan.

Role of Cabinet

1. Article 7 headed 'the Cabinet', see appendix 4d, sets out the role and responsibility of cabinet.
2. The Schedule of Portfolio responsibilities of Cabinet members at the relevant time period is attached at appendix 4h.

Role of Overview & Scrutiny

Article 8 headed 'Overview and Scrutiny Committee, see appendix 4e, sets out the role and responsibilities of the Overview and Scrutiny Committee which included in paragraph 8.4 (g) of that article, to review and scrutinise the performance and decisions of the Cabinet and to exercise the right of 'call in' of those decisions in accordance with the provisions of the constitution.

Leader & Cabinet

Part 4 section (h) of the constitution headed 'Budget and Policy Framework Procedure Rules' see appendix 4l, sets out in more detail the framework for cabinet decisions.

Paragraph 1.2 of that document states that from May 2011 all executive functions of the council vests in the Leader.

1. It also states that references to the Cabinet in the document should be read as Leader and/or Cabinet according to delegations of authority made by the Leader from time to time.
2. This section incorporates the provisions of the Localism Act and the concept of the 'strong leader' into the council's constitution.

Overview & Scrutiny Procedure Rules

Part 4 section (b) – sets out the procedure rules for Overview and Scrutiny Committee. See appendix 4f. These includes the process of calling in decisions taken by the Leader, Cabinet or a Cabinet Member.

Call in Procedure

1. Are set out in paragraph 16 of Part 4 section (b).
2. It states that within five working days of the publication date of a decision of the Leader, Cabinet or a Cabinet Member, at least three councillors on the Overview and Scrutiny Committee, one of which must be the chairperson of that committee, may give notice in writing to the lead staff member of their wish that the decision should be considered by the Overview and Scrutiny Committee before that decision is implemented.

Outcome of Call In

1. The possible outcome of calling in a decision are set out in paragraph 16.11.
2. Having reviewed the decision, the Overview and Scrutiny Committee may either request that the Leader, Cabinet or Cabinet Member reconsiders the matter for reasons put forward by the committee or decide that no further action is needed and the decision can be implemented without further consideration or delay.
3. By law, the Overview and Scrutiny Committee cannot exercise executive functions vested in the Leader and/or Cabinet nor can that committee override the decisions of the Leader and/or Cabinet.
4. This means that the Leader and/or Cabinet could re-consider the matter as requested by Overview and Scrutiny committee and decide on the same course of action as was called in.

Cabinet Procedure Rules

1. The Cabinet Procedure Rules are in Part 4 (c) of the constitution. See appendix 4g.
2. Paragraph 8.1 states that decisions of Cabinet that can be called in for consideration by Overview and Scrutiny committee will not take effect and be implemented until five working days after the date of the publication of the decision.

Code of Conduct for Councillors

One of the requirements of the 2000 Act is that the council's constitution should include a code of conduct for its councillors. This is in Part 5 section (a) of the council's constitution. See appendix 4i.

Code of Conduct for Staff

A code of conduct for staff is incorporated in the constitution in Part 5 section (b). See appendix 4j.

Policy on Gifts, Hospitality & Sponsorship

The council's policy on gifts, hospitality and sponsorship is in Part 5 section (j) of the constitution. See appendix 4k.

THE PLANNING CONTEXT

Bridge Street Car Park 2006 Planning Brief

1. In May 2006, the council produced a Supplementary Planning Document (SPD) titled 'Draft, Bridge Street Car Park Staines Planning Brief' setting out its development requirements as LPA for the car park. See appendix 5.
2. The Planning Brief proposed that the primary use of the site should be residential with an element of public and private parking.
3. It stated that the development on the site must be of exceptional quality given its prominent location in the conservation area, the river and Staines Bridge.
4. It sets out what the council requires from any development on the site including that the mass and height of any buildings should be sympathetic to the surrounding area and buildings.

Sites Allocations Document in the 2009 Local Plan

1. Reference to Bridge Street car park in the Sites Allocations document which forms part of the 2009 Local Plan, designates the car park for residential development of approximately 75 dwellings including retention of an element of public car parking.
2. The development criteria for the site is stated as a high quality design to reflect the area adjoining Staines Bridge and the river. It went on that care needed for the development to achieve a satisfactory visual relationship with adjoining properties.
3. Reference to 75 dwelling in the document is stated as an approximate figure and pre-dates the council's purchase of Hanover House which is used for commercial purposes.

THE SITE'S PLANNING HISTORY

Taylor Wimpey 2009 Proposal for Bridge Street Car Park

1. In January 2009, the council, acting as LPA, granted planning permission to George Wimpey West London (now Taylor Wimpey) to develop the car park subject to the applicant entering into a Development Agreement with the council as landowner as

part of the disposal. See item 1 in the Waterfront Project Timeline document at appendix 3.

2. The sale of the land did not proceed. The conditions of the planning permission were never met and the planning permission lapsed.

Bellway Homes 2014 Proposal for Bridge Street Car Park

1. In December 2014, the Cabinet, acting as landowner, approved the sale of Bridge Street car park to Bellway Homes subject to the applicant obtaining planning permission. See item 2 in the Waterfront Project Timeline document at appendix 3.
2. Bellway Homes applied to the council as LPA for planning permission in March 2016. See appendix 6a, 6b, and 6c.
3. Despite some level of residents' objections, the Planning Committee granted planning permission subject to conditions. See appendices 6b & 6c.
4. The conditions were never met and this planning permission also lapsed. See item 3 in the Waterfront Project Timeline document at appendix 3.
5. Bellway's proposed development on the Bridge Street car park part of the site was around 14 storeys, up to the Civil Aviation Authority's safeguarding constraints on heights of buildings around Heathrow Airport. See appendix 6d.
6. Arora's proposed development is within the same parameters as Bellway's proposal but on a wider footprint as the site now also comprises Hanover House.

Relevance of the Site's Planning History – Material Planning Consideration

1. Previous planning permissions for the site or part of the site form part of the site's planning history and is relevant material consideration that the Planning Committee would take into account when determining Arora's planning application for the site.
2. The weight that will be given to this depends on various factors including that the planning permissions were never implemented and have since lapsed.

Emerging New Local Plan to replace 2009 Plan

The council is in the process of replacing the 2009 Local Plan working in collaboration with residents and councillors.

Staines Development Framework

1. Part of the work to replace the current Local Plan is the preparation of the Staines Development Framework which will form part of the new Local Plan for the borough as an SPD.

2. The work on the Staines Development Framework is led by the Staines Development Task Group. The Group is chaired by and includes every Staines ward councillor.

The Emerging Local Plan & Staines Development Framework – Material Planning Consideration

1. Both documents are material consideration that ought to be taken into account by the LPA to determine a planning application on the site. The weight that will be given to such material consideration will be dependent on the stage the new Local Plan is in the adoption process balanced against other relevant factors.
2. See link below to the council's local plan.

<https://www.spelthorne.gov.uk/article/17620/Development-Plan-2009>

PROCUREMENT PROCESS

Background to Procurement Process

Purchase of Hanover House

In September 2017 Cabinet gave approval for the council to purchase Hanover House situated next to Bridge Street car park because of its potential to enhance the value and attractiveness of both sites for development. See item 4 on the Waterfront Project Timeline at appendix 3.

Potential Use of Site for Hotel Led Mixed Use Development

1. At this time, councillors, including the Leader, had expressed their disappointment that the borough did not have any high end hotel to attract senior executives of national and international companies located in the borough to stay in or hold events. They either went to such facilities in neighbouring boroughs or to hotels in the Heathrow Airport area.
2. Council events like the Mayor's Ball were also held outside of the borough because of lack of good quality conference facilities within the borough.
3. As Hanover House was already in commercial use, the Leader discussed with some of his Cabinet colleagues his aspiration that a development of the combined site should include a high quality hotel with conferencing and leisure facilities.

Emerging Local Plan

1. This was against the backdrop of the work on the emerging Local Plan which included public consultation between May and June 2018 to consider options on how the council could meet its housing, employment and infrastructure needs over the next 15 years. In the public consultation document, the council set out 4 options:

- intensify development on brownfield sites (that is on previously developed sites) in urban areas;
 - release Green Belt land for development;
 - maximise development in Staines as the borough's main urban area; or
 - a combination of all three of the above.
2. A majority of those that responded to the consultation opted for option four.

Staines Development Framework

The council then commenced the process of producing a Masterplan for Staines, later called the Staines Development Framework, to guide the approach to maximising development in Staines. This work is being led by the Staines Development Task Group.

STEPS TAKEN IN THE LEAD UP TO COMMENCEMENT OF PROCUREMENT PROCESS

CBRE Feasibility Study

1. At the end of 2017 senior officers, on the instructions of the Leader, commissioned hotel specialist consultants from CBRE, an international commercial property consultancy firm, to conduct a feasibility study on the viability of the site for a hotel and mixed use development.
2. CBRE were selected following a procurement exercise. This was approved by officers using the authority delegated to them by the council in the Officer Scheme of Delegated Authority which forms part of the council's constitution.
3. As the appointment of consultants is an officer function no councillor, including the Leader and Cabinet, participated in the selection and appointment of CBRE.
4. CBRE reported back to the council in March 2018.
5. The report detailing the outcome of the study was presented to the Leader. The conclusion was that the site would support a hotel and residential development but would at best be a 2 to 3 star hotel.
6. The Leader was clear that the hotel offer on the site should be at least a 4 star hotel to improve the aspirational nature of Staines' regeneration.

Use of Waterfront & Waterfront Project to describe the Site

Sometime after discussions on the outcome of the feasibility study, the site started being referred to by officers in internal communication and those with external advisors as the 'Waterfront' and the ensuing procurement process as the 'Waterfront Project'.

Appointment of Specialist Hotel Consultants

1. In September 2018, the Legal team issued a request for quotes from specialist hotel consultants to support the council in its procurement of a developer for a hotel led mixed use development on the site.
2. The quotes were evaluated on price and quality.
3. Colliers International Hotel Consultants (Colliers) were selected on the basis of best price.
4. Colliers were appointed by officers under officer delegated authority.
5. Only two specialist hotel consultancies responded to the council's request for quotes for this work – Colliers and Cushman & Wakefield.

Scoping Meeting

1. On 13 June 2019, officers held a high level scoping meeting with the Leader to determine the vision for the site and to agree on the direction of the procurement project.
2. The meeting was organised by officers.
3. Mr Howard Williams attended the meeting in his capacity as Director of Knowle Green Estates (KGE), the council's housing management organisation, should there be residential units within the development that the council might want KGE to manage.
4. Once it became clear that a developer would want to retain the management of the residential units in the development, Mr Williams' involvement in the matter ceased.

Soft Marketing Testing

1. On 17 June 2019 a soft market testing event was held at the offices of Colliers.
2. The purpose of the event was to sound out the market's interest in the site and the council's aspirations for the site as well as inform the market of the procurement route favoured by the council and why.
3. The council was represented by Colliers, officers and external consultants (acting on behalf of the council) at this event. These consultants were appointed and reported to council officers.
4. Because, the soft market testing event was an operational matter within the remit of officers, there was no member involvement or attendance at the event.

Appointment of Cushman & Wakefield

1. On 1 July 2019 Colliers were replaced by Cushman & Wakefield (CW) as the former were found by officers not to be the right fit for the project.
2. CW were also appointed under officer delegated authority.

Appointment of Clyde & Co LLP

At some point after the soft marketing testing Clyde & Co, an international legal firm, were appointed off the pre-procured contracts framework used by councils within Surrey, to support the council's project team on this procurement.

COMMENCEMENT OF THE PROCUREMENT PROCESS

Procurement Route – Competitive Dialogue

1. The council's previous approach to the site was to sell it off with little opportunity to influence what was ultimately built on it apart from as an LPA.
2. This was the position with the abortive sale of the car park to Taylor Wimpey and latterly Bellway Homes.
3. The council wanted some level of control on what would be built on the site and so it set out to find a procurement route that would best achieve this.
4. Officers' position was that this was a public works contract to which the Public Contracts Regulations 2015 (the Regulations) applied.
5. Following discussions with the council's external commercial (CW) and legal advisors (Clyde & Co), the Council's Procurement Manager suggested Competitive Dialogue as the most effective route to market where the specification or requirements could not be fully detailed and working with the market could achieve a positive solution.

Approval to Advertise in OJEU

1. The approval to proceed to the next stage of the procurement exercise, which was to publish the procurement project in the Official Journal of the European Union (OJEU) was given on 25 July 2019 by the Investment Property Committee (IPC).
2. IPC is made up of the Leader, Chief Executive and the Deputy Chief Executive and the council's section 151 officer. IPC is not specified in the January 2019 constitution as a decision making body.
3. However, with the presence of the Leader, on whom rests all executive functions of the council in that group, it gave the approval to proceed to OJEU.
4. The matter was then signed off by officers under officer delegated authority.

5. It is a requirement of the Regulations that a contract of this value is advertised in the OJEU.

OJEU Contract Notice

1. The transaction was advertised in the OJEU on 1 August 2019, pursuant to the Regulations as a public works contract. This was done by way of publication of a Contract Notice. See appendix 7a.
2. The OJEU notice specified Competitive Dialogue as the type of procurement procedure the council will be using on this project.
3. It also included a paper titled 'Outline Project Brief' setting out the council's aspirations for the site as well as a timetable for the procurement process. See appendix 7b.

Expressions of Interests

1. At the beginning of September 2019, officers long listed eight valid expressions of interests from eleven bidders.
2. They were evaluated by the council's Procurement Manager with the assistance of the council's Asset Development Manager and CW.
3. Conduct of the procurement process is a highly technical matter that required professional expertise in the relevant areas. It was led by council officers working with consultants reporting to council officers and the external advisors. Councillors were therefore not involved with these stages of the process.

Invitation to Participate in Dialogue

1. The eight expressions of interests were further evaluated by officers supported by CW and Clyde & Co.
2. Four of the eight bidders were invited to participate in competitive dialogue with the council.

Cabinet Briefings on the Council's Housing Developments

1. The Council's Property and Development Manager provided monthly briefings to the Leader and Cabinet to update them on progress with the council's property projects.
2. These briefing sessions usually took place as a pre-meeting to Cabinet meetings to ensure good attendance by Cabinet Members.
3. At such briefings the Leader and Cabinet Members can and do ask questions of officers on the projects in the briefing papers.

4. Commercially sensitive and/or confidential information about the projects would usually be anonymised but there would have still been sufficient information provided to councillors verbally to enable them to ask informed questions about the projects.

CABINET BRIEFINGS ON THE SITE'S PROCUREMENT PROCESS

1. The first mention of the procurement project in relation to the site was in the Cabinet briefing paper for September 2019. The briefing took place on 9 September 2019.
2. The site is referred to as the 'Waterfront Staines' in the paper.
3. There is an update in the paper on the procurement process as at September 2019. The notes also set out the next steps in the process.
4. The notes state that what is being procured is a partner led delivery of a high quality hotel led mixed use regeneration scheme on the site.
5. There are no details of any of the bidders in the notes.
6. No drawings or plans of any of the bidder's proposals were presented to Cabinet nor were there any indications given of the height or scale of the proposed development on the site.
7. Whilst questions were raised by Cabinet members about what was contained within the bidders' offer, none was raised about the height, scale or density of the proposed development on the site.

Other Cabinet Briefings where Update on Procurement Process Provided

1. **15 October 2019** - anonymised update on the procurement process to date with next steps provided to Leader & Cabinet by officers.
2. **21 November 2019** - Cabinet Briefing – anonymised update on the procurement process to date with next steps provided to Leader & Cabinet by officers.
3. **13 January 2020** – anonymised update on the procurement process to date with next steps provided to Leader & Cabinet by officers.
4. **10 February 2020** – anonymised update on the procurement process to date with next steps provided to Leader & Cabinet by officers.
5. **9 March 2020** – anonymised update on the procurement process to date with next steps provided to Leader & Cabinet by officers.

Invitation to Participate in Dialogue with the Council - ITPD

1. The ITPD was issued to the four shortlisted bidders on 6 November 2019.

2. The council was represented at the dialogue sessions by its officers, internal consultants and external advisors.
3. The ITPD document sets out how the council means to conduct the dialogue sessions. It also sets out the council's ambitions for the site and its expectation of the bidders. It explains how each bid would be evaluated – weighted 70% for quality and 30% for the bidder's commercial offer.
4. It included a time table of key dates in the process from the issue of the ITPD on 6 November 2019 to the anticipated award of contract date in May 2020. See appendix 7b.
5. In that timetable there is a reference to seeking internal approvals in April 2020. Internal approvals would include Cabinet approval of the award of contract to the successful bidder.
6. The same document was sent to each of the four remaining bidders invited to participate in the dialogue.

First Dialogue Sessions

1. The external advisors' notes and those of council officers in attendance at the sessions show that there was no councillor in attendance at these sessions with the four bidders.
2. The same agenda, prepared by the council's advisors, was used at each of the four sessions of the First Dialogue.
3. The purpose of the First Dialogue was for the bidders to present their bids.
4. One bidder de-selected itself at the end of the First Dialogue as they would not be able to deliver the project to the council's requirements.

Site Visits

1. At the end of the First Dialogue sessions, between December 2019 and February 2020 council officers and advisors conducted site visits to the remaining three bidders' self-selected sites.
2. The purpose of the site visits was to assess the bidder's product on the ground against their pitch at the First Dialogue session.

Second Dialogue Sessions

1. The second Dialogue sessions with the remaining three bidders took place from 27 January to 5 February 2020.
2. No councillor was in attendance at these sessions. They were conducted by the council's advisors and officers.

3. A second bidder dropped out of the process at the end of the second Dialogue session. Other priorities became evident during the dialogue process and they found they could no longer deliver to the standard expected by the council.

Third Dialogue Sessions

1. Proceeded with the two remaining bidders.
2. Both bidders were then invited to submit final tenders.

Invitation to Submit Final Tender – ISFT

1. The ISFT was issued on 4 March 2020 to the final two bidders.
2. It reiterated the process to date including that bids will be evaluated on the basis of 70% for quality and 30% for commercial offer.
3. It again re-produced the time table of key dates incorporated in the ITPD.
4. The key dates included April 2020 for internal approvals for the preferred bidder appointment and award of contract in May 2020. See the Procurement Process Time Table at appendix 7b.

DEVELOPMENT AGREEMENT

1. The award of the contract was to be by way of the successful bidder entering into a Development Agreement with the council.
2. The draft of the Development Agreement was produced by Clyde & Co on behalf of the council.
3. This is a highly technical legal document. Its purpose is to set out in detail the relationship between the parties over the lifetime of the contract. It makes provisions for the various aspects and stages of the relationship between the council and the successful bidder called the tenant and their guarantor which is their parent company.
4. It includes the grant of a 250 year lease over the site to the tenant.
5. There are mechanisms in the document for calculating rent and other payments due to the council as part of the contractual and lease arrangements between the parties.
6. The Development Agreement is conditional upon the tenant obtaining planning permission within a set time period from the LPA to build out their proposal.
7. There are various key dates and milestones in the document to move the relationship onto the next stage in the process.

8. The document was part of the dialogue sessions at each stage of the negotiations.
9. Whilst some aspects of the Development Agreement were open to negotiation as part of the dialogue sessions as would be expected from a commercial enterprise, there were aspects of the document that were non-negotiable particularly those that impact on the council's vision and ambition for the site.

12 March Forward Plan

1. As the tender submission deadline in March 2020 approached, the council's internal senior legal advisor contacted the Leader and others involved with the procurement on 28 February to advise that a meeting of Cabinet would need to be arranged to consider a report on the procurement process and for decision on award of contract at the conclusion of the process.
2. As the procurement key dates made known to all the bidders and in the dialogue documentation were not in line with scheduled Cabinet meetings, she advised that an Extraordinary Cabinet meeting would be required to enable the council to meet the time scales it set for the project.
3. An extraordinary meeting of Cabinet to take place on 8 April was duly included in the council's Forward Plan of 12 March 2020. See appendices 9a & 9b.
4. The procurement project is referred to as 'Tender report on Staines Development' in the 12 March 2020 Forward Plan and not as the 'Waterfront' or the 'Waterfront Project' as it had been referenced since 2019.

WHAT IS AN EXTRAORDINARY CABINET MEETING?

1. An extraordinary Cabinet meeting simply means that the meeting is not one of those scheduled at the start of the council's municipal year and was added at a later date.
2. There were several extraordinary meetings of Cabinet that year. See the Forward Plan for March 2020 attached at appendix 9b.
3. The Extraordinary Cabinet meeting to approve the award of the contract was held at 11am on 8 April 2020.
4. At 11.30am on the same day there was another Extraordinary Cabinet meeting on another matter right after the meeting at 11am.

Change of Deadline for Bid Submission

1. The deadline for the return of bids was moved to 20 March 2020 from 18 March at the request of one of the two bidders.
2. One of the bidders asked for an extension of time as it was still waiting for a third party to provide information required to finalise its bid.

Bid Evaluation Process – March 2020

This was the first time councillors were directly involved in the procurement process since July 2019 when the Leader gave approval for the contract to be advertised in the OJEU.

COUNCILLOR INVOLVEMENT IN THE EVALUATION OF BIDS

1. Officers decided that the Leader and relevant Cabinet Members should be involved in the evaluation of the non-technical aspects of the quality element of the two bids.
2. It is not usual practice for councillors to be involved in evaluating procurement tenders but it is not unheard of particularly given the value of this procurement and its importance to the council.
3. The total score for that part of the evaluation conducted by councillors was around 11% of the total score.
4. The Leader selected three Cabinet Members based on their portfolio to join him in the Cabinet part of the evaluation process.
5. The three other councillors were: Cllr Harman, the Deputy Leader with the Finance portfolio, Cllr Rybinski, the Lead Member for Economic Development, Customer Service, Estates and Transport; and Cllr Mrs Harvey, Lead Member for Investment Portfolio Management & Regeneration.
6. The remainder of the evaluation was conducted by council officers with the support of the external advisors with no further input from councillors.

Evaluation Training on 9 March 2020

1. Clyde & Co conducted training for the evaluation panel made up of officers and councillors.
2. Key themes of the training were that the bidders should be given equal treatment and the process must be transparent and non-discriminatory.
3. Evaluators were asked to declare any actual or potential conflict of interest before the start of evaluation.
4. They were advised to evaluate what has been presented by each bidder not what they know or like about the bidder.
5. They were reminded to focus on the bidder's tender not the marketing materials presented by the bidder.

Evaluation of Tenders – 23 to 27 March 2020

The dialogue was declared as closed and evaluation of the final two tenders took place between 23 and 27 March 2020.

Arora Selected as Successful Bidder

At the end of the evaluation process, Arora Hotels Limited were selected as the successful bidder.

PREPARATION FOR THE EXTRAORDINARY CABINET MEETING OF 8 APRIL 2020

1. The agenda for the Extraordinary Cabinet meeting to consider the report on the procurement process and the recommendations for the award of the contract was published on the council's website on 31 March 2020.
2. An email notification of the publication of the agenda on modern.gov (a virtual electronic system used by the council's committee team to send committee agenda and other papers to councillors) was sent to all councillors. Modern.gov is accessible by all councillors. See appendix 9e.
3. The published agenda did not include the report.
4. A first supplementary agenda was published on the council's website on 1 April 2020. This publication stated that the tender report was exempt which meant it could not be appended to the notice in its entirety for reasons of confidentiality and/or commercial sensitivity. See appendix 9g.
5. All councillors were notified of the publication of the first supplementary agenda on the same day on modern.gov and the exempt report was accessible to them on that system.
6. A second and final supplementary agenda containing the financial information on the tenders was published on 6 April, two days before the Extraordinary Cabinet meeting.
7. This publication was also notified to all councillors and the document was accessible to them through modern.gov. See appendix 9i.

COVID & NATIONAL LOCKDOWN

1. Central Government imposed a national lockdown on 23 March 2020.
2. Towards the end of February 2020, the council started to reduce face to face contact and activities particularly in the council's offices in light of the raising Covid cases.
3. Much of the activities on the project in March and April 2020 was done virtually including the Extraordinary Cabinet meeting on 8 April which was conducted via Skype.

Majority Group Deliberations on Officers' recommendation to Award the Contract to Arora Hotels

1. The Leader emailed the Majority Group late on Sunday 5 April inviting them to a virtual meeting the next day Monday 6 April to discuss the report to award the contract to Arora following the procurement process.
2. In communication between members of the Majority Group a number of the councillors including some cabinet members stated that this was the first time they had been provided with details of the project.
3. They also challenged the lateness of the Group meeting given that the extraordinary Cabinet meeting was two days from then on 8 April.
4. There were also concerns that there were no financial information provided and the report did not contain sufficient information to satisfy those concerns.
5. There was dissatisfaction and concerns. Some of the councillors asked that the decision on the award of the contract be delayed to allow for more time for Group to deliberate on the matter given the importance and high profile of the site.
6. On 6 April the financial information on the tenders was published as a second supplementary to the agenda for the meeting on 8 April. See appendix 9j.
7. The Leader asked the council's Monitoring Officer to prepare a Questions and Answers paper to address the questions that had been raised by Group. This was circulated to Majority Group. See appendices 8a and 8b. See also appendix 9c, the Leader's email of 7 April to the Majority Group.
8. The consensus at the end of the Group meeting on 6 April was that the Extraordinary Cabinet meeting on 8 April should proceed and the contract be awarded as recommended by officers.

EXTRAORDINARY CABINET MEETING OF 8 APRIL 2020

1. This meeting was held virtually via Skype. All Cabinet Members were in attendance. See Skype invite to all councillors at appendix 9d.
2. One Cabinet Member had earlier given her apologies for the meeting as she thought she would not be able to attend.
3. But she was able to attend the meeting, spoke at the meeting and also attended the second virtual extraordinary cabinet meeting that took place at the conclusion of the meeting on the Waterfront contract award.
4. The Leader asked each Cabinet in turn for their view on the project and at the end of deliberations the Cabinet voted unanimously in support of the award of the contract to Arora Hotels.

5. The Majority Party Whip stated that at no time during this process were the Cabinet Members and/or the Majority Group whipped as to how to vote.

Notification of Completion of Procurement Process & Successful Bidder

1. The council notified both bidders of the outcome of the process on 8 April. They were provided with the name of the successful bidder.
2. They were also provided with their score from the evaluation process and that of the successful bidder.
3. Under the Regulations, the council must wait at least 10 calendar days before entering into a contract with the successful bidder. The calendar days do not include a non-working day. This is known as the 'standstill period'.
4. The purpose of the standstill period is to give unsuccessful bidders the opportunity to make further enquiries and challenge the outcome of the process should they wish before the award of contract.
5. Both bidders were informed in their letters that the standstill period expired on 20 April 2020.
6. The unsuccessful bidder did not raise any enquiries of the council or challenge the proposed award of the contract to Arora.

Completion of the Development Agreement with Arora Hotels Limited

The Development Agreement documenting the formal award of the contract was completed by the council and Arora on 30 April 2020.

Council Press Release and Briefing to Residents on the Award of Contract

1. The council sent out a press release on the conclusion of the process and the award of the contract on 4 May 2020. See appendix 10.
2. It also produced a briefing on the project for residents' representatives and ward councillors on 19 January 2021. See appendix 11.

OBSERVATIONS

1. The usual practice is that decisions going to an Extraordinary Cabinet meeting will not first be discussed at a meeting of the Majority Party Group because there would have been no time to arrange such a meeting outside of those already scheduled.
2. Group discussion and a virtual meeting were arranged on this matter because of its importance and significance for the council.

3. The Leader and some other councillors formerly in the Majority Group at the time did not have a cordial relationship with a number of established councillors in that group and the Executive Committee of the local Conservative Party. Relationships were so fraught that on occasions some councillors walked out of Group meetings.
4. Each side looked at the other with suspicion. This made working together challenging.
5. The relationship eventually became irreconcilable and the Leader and a number of other councillors left the Conservative Party to form their own group.
6. It was alleged during interviews that the Leader was autocratic and egoistical. He was perceived as driven to achieve his ambition at all costs and did not welcome challenge or dissent.
7. The Leader and the other councillors who left the Majority Group, made various allegations including meddling and sabotage against those still within the Group. They had also made formal complaints against the leadership of the local Conservative Party.
8. Some of the councillors interviewed said the situation was so bad that they will not be standing at the next election.
9. In the past the Leader survived votes of no confidence. It was alleged that it had become apparent that there might be another vote of no confidence against him one which he would very likely lose.
10. The Leader was anxious to prevent leaks of commercially sensitive and confidential information due to allegations of leaks of such information in the past. An example provided by the Leader was the alleged leaking to a rival bidder by a senior councillor on the Majority Group of the council's offer for a commercial property which resulted in that competitor for the property out-bidding the council for it.
11. This experience is cited as one of the reasons why the Leader was cautious about how and with whom he shared confidential information on commercial transactions.
12. Decisions were made within this fractured and patently dysfunctional environment.
13. There also appeared to be a fundamental lack of understanding by a number of councillors of how the council made decisions within the context of a Leader/Cabinet decision making model.
14. The Leader/Cabinet model of governance vests significant power and authority in the Leader especially and also Cabinet. What was considered a small handful of councillors could make far reaching decisions without the input of the majority of councillors or their prior consultation. This did not sit well with a number of councillors from the Majority Group.

15. That councillors on Cabinet were there at the discretion of the Leader made some councillors view those on Cabinet as enablers of what is alleged to be the Leader's autocratic and non-inclusive style of leadership. These councillors were seen as duty bound to do the will of the Leader so as not to lose their position.
16. Some Majority Group councillors did not engage properly with the decision making process. They failed to read papers and did not prepare for meetings. Sometimes the first time they became aware of details of a matter would be when it came up in discussion at a meeting.
17. The Leader and Cabinet model did not give much scope for backbenchers from the Majority Group to participate in the executive decision making.
18. Councillors in other political parties on the council had no formal role in executive decision making.
19. It was unfortunate that two bidders de-selected themselves prior to the ISFT stage of the procurement process. Three or four final bids would have kept competition in the process quite high. However, decisions to de-select themselves were made by the two bidders unilaterally and due to reasons unrelated to the council.
20. There were still sufficient number of final bids for the process to continue and officers affirmed that they took steps to maintain the competitive tension between the two final bidders.

CONCERNS & FINDINGS

CONCERNS

The issue for residents and councillors isn't necessarily the development of a hotel led mixed use development on the site. Some were positively in favour of such a development and others welcomed the development of the site.

Their concerns are:

1. The height, scale, mass and density of the proposed Arora development.
2. The alleged secrecy surrounding the decision making leading to the award of the contract to Arora.
3. The allegation that the decision had been made by the Leader, his wife (Councillor Helen Harvey) and a handful of other councillors said to be the Leader's close allies.
4. The alleged failure to consult ward councillors and residents on the proposal.

5. The alleged failure by the council to discharge its statutory duty to co-operate with affected neighbouring authorities and the providers of relevant infrastructure prior to the Development Agreement being approved and signed.
6. The allegation that because the Leader knew the Majority Group was in the process of organising another vote of no confidence against him and that this time he is likely to lose it, he deliberately rushed the decision when it could have been delayed because of Covid and the national lockdown.
7. The allegation that this was a vanity project for the Leader and he was going to see it through whatever the circumstances as his 'parting shot' to the Conservative Party.
8. That senior officers, who should have kept the Leader in check, were working in cahoots with him.
9. The grounds on which the Leader, other councillors involved and officers concluded that the proposed development, given its height and mass, would be compatible with its location in the Conservation Area.
10. That there was some effort by the Leader and officers to award the contract to Arora because of the Leader and senior officer's previous associations with the company, for example, the council's purchase of the building known as World Business Centre 4 (WBC4) from a company in the Arora Group of companies.
11. That the terms of the Development Agreement had been drafted in favour of Arora to the detriment of the council, for example, the length of the term of the lease, favourable rent free provisions, undertaking by the council to assist Arora in obtaining planning permission to build the development.
12. Another concern was that the Development Agreement was not referred to or called in by the council's Overview and Scrutiny Committee.

FINDINGS

1. I found no evidence that the Leader acted outside of his executive powers in relation to any aspect of this procurement project.
2. I found no evidence that this public works procurement breached any of the provisions in the Regulations.
3. I found no evidence that the Leader, Cabinet Members and officers involved with the procurement process breached any provision in the January 2019 constitution.
4. I found no evidence that the Leader, Cabinet Members involved in the procurement and officers acted out of personal gain or for reasons of financial incentives.

5. I found no evidence that the Member Code of Conduct or Officer Code of Conduct was breached in any aspect of this procurement project.
6. The council acted in its role as a landowner entering into a contract and the grant of a long lease to a developer to develop its land. That contractual relationship took the form of a Development Agreement and associated documents issued with the tender pack at the commencement of the procurement process.
7. The Development Agreement is a contract. It is a commercial contract. It is not a planning document.
8. The council has no legal duty or obligation to consult ward councillors, residents or other external public bodies in settling the terms of the Development Agreement.
9. In the Leader and Cabinet model of governance, officers have no duty to consult ward councillors or other councillors or residents on a procurement exercise.
10. The bidders would be required to disclose commercially and financially sensitive information as part of the competitive dialogue process. This is to enable the council and bidders to conduct open and frank negotiations. Such information would have played an active part in selecting the winning tender and would have informed some of the provisions in the Development Agreement.
11. For a procurement exercise of this nature and scale to be successful, the bidders have to be confident that their sensitive information would be kept confidential and not disclosed to third parties during the competitive dialogue process.
12. It is at the planning stage, when the successful bidder applies to the council for planning permission to build its scheme that the council, acting as a Local Planning Authority (LPA), has a statutory duty to consult.
13. The Development Agreement is conditional on the successful bidder obtaining planning permission from the council acting in its capacity as an LPA. Planning is not an executive function.
14. Arora would have to satisfy the requirements of the LPA to obtain planning permission.
15. Officers do not participate in party political group deliberations. They have no control over or involvement in how party political groups within the council are run or what and when information is provided by the Leader, Cabinet or other councillors to political party groups.
16. How political party groups operate and their dynamics sit outside the council's constitution.
17. I found no evidence that the terms of the Development Agreement were unreasonably favourable to Arora to the detriment of the council.

18. The provisions are balanced in a way that they will be acceptable to the industry and enable any developer (the successful bidder, in this case Arora) to access funding should they need to but at the same time the document contains sufficient provisions to protect the council's interests and ambitions for the site.
19. Residents were concerned that the council gave an undertaking in the Development Agreement to support Arora in obtaining planning permission.
20. This is a standard provision where the ownership of the land has not yet transferred to the developer.
21. As the land is still in the council's ownership, Arora will require the council's (as landowner) support to put together their planning application, for example, to access the site to carry out surveys or access documentation relating to the land in preparation for submitting their planning application.
22. The council as LPA in determining Arora's planning application must do so on sound planning grounds. It has a statutory duty to treat Arora's planning application as it would any application coming before it.
23. The drawings of the proposed development provided by Arora and sent to the Majority Group by the Leader is clearly marked as indicative of the design of the proposed development. It is not the final plan and drawing of the proposed development. The development's height, mass and density will ultimately be decided by the LPA after discharge of its duty to consult as required by law.
24. Residents were also concerned about the rent provisions in the document.
25. This is a project over a number of years that would require the developer to expend millions of pounds in development costs. It is not unusual with such projects to draft the rent provisions in such an agreement in this way so as to attract bidders.
26. Because of the complexity of the procurement exercise, council officers were supported by experienced and reputable external legal advisors and did not act alone.
27. I found no evidence that the Leader knew who the final two bidders were until March 2020 when he became partly involved in evaluating the final bids.
28. The Leader sought advice from the council's Monitoring Officer at the time on whether there was a conflict of interest and whether to declare an interest because of his prior dealing with Arora in his capacity as Leader of the council during the council's purchase of World Business Centre 4 from one of the companies in the Arora Group of companies.

29. He was advised by the council's Monitoring Officer at the time that he did not have a conflict. It was not a disclosable pecuniary interest as the association was in the line of his role as Leader.
30. Whilst not usual practice for councillors to be involved in the evaluation of tenders, officers invited the Leader and other councillors to participate in the assessment of a part of the quality element of the submitted tenders. The Leader had been quite particular about the quality of the development on the site and it seemed appropriate to officers that he was involved in that aspect. This is not an unreasonable decision to make.
31. I found no evidence that the process was not delayed because the Leader realised his time in office might be coming to an end because his colleagues in the Majority Group were about to vote him out.
32. Whilst I cannot rule out that on a human level this might have been a factor, there is evidence from the time table provided to bidders at the start of the process that internal approvals, including Cabinet approval for the award of contract, would be sought in April 2020 and completion of the Development Agreement was scheduled for May. It was signed off on 30 April.
33. It is a strong argument that given the backdrop of a worldwide pandemic and an unprecedented upheaval of life as we know it, the completion of a procurement process relating to the hospitality industry, which was heavily impacted by the pandemic, should not have been a priority at that time.
34. The counter-argument put forward by the councillors and officers involved in the procurement exercise was that it had been a complex, long and expensive process that had reached its final stages. Both the officers and councillors involved were of the opinion that the council had obtained a favourable deal and delaying or aborting the process was not in the council's long term interest because it looked unlikely that the council would secure such a good deal at a later date.
35. Also, none of the bidders had requested delaying or aborting the process.
36. The councillors on Cabinet should have been aware of the project since the September 2019 Cabinet briefing session by officers. The Waterfront Project as the procurement exercise was referenced in the Cabinet Briefing notes was on the agenda for those briefing sessions from September 2019 until March 2020.
37. The Cabinet Members had opportunities to ask questions of officers and the Leader at those briefing sessions and some did.
38. The decision to approve the award of the contract to Arora was made unanimously by Cabinet. The vote was not whipped. Cabinet Members could vote as they saw fit.
39. The councillor who was the Majority Party Whip during this period said that he did not recall any occasion when councillors were told how to vote on any matter including

the decision whether or not to award the contract for the re-development of the site to Arora.

40. The procedure for a decision to be called in by Overview and Scrutiny Committee is set out above. In the Leader and Cabinet executive arrangement, there is no statutory or constitutional requirement for the Leader and/or Cabinet to refer matters or legal documents to the Overview & Scrutiny Committee.
41. The Chair of the Overview and Scrutiny Committee at the time stated that she was not approached by any councillor, including those not on the committee, about calling in the decision to award the contract to Arora.
42. The decision was not implemented until expiry of the call in period – the period in which the decision could have been referred to Overview and Scrutiny Committee to be called in.
43. The first time councillors in other political parties became officially aware of the transaction was from the council's press release of 4 May 2020 when the council officially and publicly announced the award of the contract to Arora.
44. Opposition councillors had not been involved in or informed about any aspect of the process.
45. There was no mechanism within the Leader and Cabinet governance model for their input.

RECOMMENDATIONS

1. These events occurred whilst the council operated the Leader and Cabinet model of governance. It moved to committee system of governance in May 2021.
2. Recommendations that I would have made to address some of the issues that arose will not be applicable given that the council now operates a committee system of governance.
3. Much was made of the fact that the decision on 8 April 2020 was not referred to the Overview and Scrutiny Committee to give that committee the opportunity to review the Development Agreement before it was concluded. Why this is an erroneous view has been addressed above.
4. I would have recommended targeted training for members generally and those on Overview and Scrutiny Committee in particular about how overview and scrutiny worked, their role, powers and how call in works within the council's constitution would have been beneficial to clear up a number of misconceptions.
5. In the context of the council's current committee model of governance, I recommend that interactive and councillor led training be arranged for councillors on how the

council operates and how decisions are made and opportunities to influence and challenge decisions.

6. All Councillors could benefit from training on how the planning system works and the role of the council as an LPA.
7. Councillors' induction training for new and returning councillors should stress the need for them to maintain the confidentiality of council information that comes to their knowledge and/or possession. They should be reminded that failing to do so, without good cause, could be a breach of the Member Code of Conduct.
8. The site was the Bridge Street car park then 'The Waterfront'. The procurement project for the combined site of Bridge Street Car Park and Hanover House was referred to as the 'Waterfront Project' understandably following the council's acquisition of Hanover House and also for marketing purposes.
9. In the Forward Plan of 12 March 2020, the project is referred to as the 'Staines Development.' The report to the Extraordinary Cabinet meeting of 8 April 2020 is titled 'tender report for Staines Development'.
10. It was alleged by some of interested parties that I interviewed that this 'low key' description of the site on the Forward Plan was to avoid scrutiny and keep the intended award of the contract to Arora 'under the radar' so as to reduce the opportunity for challenge by councillors and the public.
11. I recommend that extra care should be taken by officers to maintain consistency of description of projects particularly in documentation or publications aimed at councillors and the public to prevent confusion and suspicion. There is no real reason why the same project should be called by different names.
12. Councillors also complained about the volume and quality of papers that are presented to them by officers in their roles as councillors, committee members and community leaders.
13. This complaint is not unique to this local authority.
14. Most councillors lead busy lives. Some have full time jobs and family life and commitments that they struggle to juggle with their council duties. An already pressured situation is made worse when councillors are presented with paperwork that they find difficult to wade through and understand or appreciate what is at stake.
15. They believe this negatively impacts their ability to make decisions or take action on a fully informed basis. Some feel that the lack of clear and understandable information in easily digestible format is deliberate by officers so they are kept in the dark or not fully apprised of council decisions and activities. This has led to some councillors having no confidence in information and/or advice received from some officers.

16. I recommend that the council conduct a review of how and how much information and paperwork are presented to councillors with a view to work with councillors to better understand the issues raised and how to address them.
17. I recommend that the council's Monitoring Officer, with input from other relevant officers and councillors as appropriate, review the council's report templates to ensure they are in a format that, whilst meeting statutory and constitutional requirements, also addresses the point made by some councillors to be given the tools that enable them to make informed decisions.
18. Reports should be clear on their face whether they are for councillors' decision or information.
19. Councillors expressed varying degrees of unease about the presence of so many external consultants advising and acting on behalf of the council particularly in senior roles. Some even questioned the legality of decisions taken by consultants not directly employed by the council and whether the council is bound by their decisions.
20. I recommend that the relevant senior officers in the council review the use of external consultants particularly in key roles with a view to identifying those that can be filled by direct recruitment and undertake a recruitment drive to fill those positions.

Yinka Owa
Independent Investigator
25 July 2022