

Berth 4/5 Independent Review

Terms of Reference

Purpose

The section 151 Officer is commissioning East Kent Audit Partnership to undertake a review of the Berth 4/5 capital scheme.

The requirement to undertake the review arises from the need to satisfy the recommendation received from the Independent Monitoring Officer (IMO), to;

Undertake an independent review/audit of the Berth 4/5 project from its inception to the present day with a view to identifying the causes for delay and cost overruns which have beset the project including the project governance. The results to assist in identifying lessons for the future management of large projects.

The key objectives of this review are to:

- Provide the section 151 Officer and Thanet District Council with a level of assurance pertaining to the governance and the project management associated with this scheme, and
- Provide learning and/or improvement actions for the future management of large projects.

Background

On 12 October 2021, Grant Thornton, the Council's external auditors issued statutory recommendations against the Council under Section 24 of Act: <https://www.thanet.gov.uk/wp-content/uploads/2021/10/Thanet-District-Council-statutory-recommendations-12-October-2021.pdf>

The Council accepted the recommendations in full at its meeting of 2 November 2021: <https://democracy.thanet.gov.uk/ieListDocuments.aspx?CId=141&MIId=6087>

The first recommendation was that the Council should “*Commission an Independent Monitoring Officer from a large local authority to report to the General Purposes Committee on.....A lessons learnt report collating themes and recommendations from all externally commissioned reports and any other appropriate evidence*”

The Council appointed Mr Quentin Baker, Monitoring Officer from Hertfordshire County Council, in accordance with the recommendation.

The analysis in the IMO report focussed primarily on the governance regarding some processes within TDC and did not review the wider operational performance of the council in delivering its services and activities. However, one area of the operation was identified as warranting mention in the report. Mr Baker reported that resounding consensus was of

concern regarding the quality of project management in relation to this activity which has been ongoing for a number of years and has resulted in significant financial losses and adverse publicity. The project commonly referred to as 'Berth 4/5' was also a source of conflict between the former members of the Corporate Management Team

Scope

Concerns raised either directly by the IMO himself or referred to in his report as being raised by other TDC officers include:

- A perception by the previous section 151 Officer of a failure to follow appropriate procurement procedures
- A perception by the previous section 151 Officer of a general lack of sound project management leading to significant financial overspends
- There is also a perception of a lack of transparency which is justified on the basis of 'commercial sensitivity'.
- Whether sufficient weight was given to the advice and opinion of the section 151 Officer
- Whether councillors were given sufficient and adequate information in relation to the project

Accordingly, an objective of this review is to sufficiently address all of the above concerns. The recommendations set out that the review should cover the project from its inception till current day.

This is a complex project and it is not possible to set out all the relevant documentation and processes that needs to be reviewed. As a minimum the following aspects should be considered:

- **Business case formation** - How the business case for the project was formed and whether it was sufficiently detailed given the size and complexity of the project.
- **Option appraisal** - including the consideration of alternative options to the chosen solution.
- **Corporate project evaluation process** - how the project was evaluated, from a financial & non-financial perspective, and what key criteria were met.
- **Procurement process followed** - The appropriateness of the process that was followed. The consideration of the advice that was received from procurement professionals.
- **Initial supplier engagement** - At what point were BAM engaged with as a potential supplier and whether any commitments (contractual or otherwise) were entered into prior to the necessary approvals being obtained.
- **Commissioning and consideration of legal advice** - how the legal advice that was obtained was considered and applied.

- **Decision making, governance and approval process** - the adequacy of the governance arrangements, including whether the dispute between the members of CMT affected the process. Whether sufficient weight was given to the advice of all of the statutory officers.
- **Project chronology** - the review should consider the sequencing of events and whether this has contributed to any of the perceived project failures.
- **Risk management** - whether appropriate RM tools have been applied.
- **Granting of necessary permissions** - much of the delay and overruns have been cited as being due to the requirement to obtain further permissions. The review should consider whether it would be reasonable for the officers to have anticipated these requirements from the project outset.
- **Budget control and monitoring** - the accuracy of forecasts and robustness of controls.
- **Member engagement** - The involvement of members in the decision making process and the allowance for appropriate opportunities for scrutiny.
- **Communications approach / strategy** - consideration of how residents and other stakeholders were informed or engaged with throughout the project.
- **Application of commercial sensitivity restrictions** - provision of a view on whether the application of these restrictions was appropriate and in what circumstances they may or may not be for future large projects.
- **General Project Management** - whether appropriate project management tools, techniques and controls were deployed.
- **Corporate Operating Environment** - all of the above should be considered in the context of the environment that TDC's CMT was operating in.

This is not intended to be an exhaustive list, and it is at the discretion of EKAP to consider whether other facets of the project need to be reviewed.

Persons of interest

Some of the officers that were intimately involved in the project have now left the authority, particularly the three statutory officers. However, there are still a number of existing officers who were and/or remain involved with project to varying degrees; to enable a thorough review and understanding of the chronology and complexities of the project it is recommended that the following officers are interviewed:

- Gavin Waite, Corporate Director of Communities
- Mike Humber, Levelling Up - Project Director
- Robert Brown - Maritime Operations Manager and Harbour Master
- Chris Blundell - Acting Deputy Chief Executive & s151 Officer

- Matt Sanham - Acting Director of Finance and Operations
- Gemma Paul - Procurement Manager

The above list is not intended to be exhaustive and the need to interview other officers may arise through the passage of the audit.

Distribution

A draft copy audit report should be provided to the s151 Officer, the Chief Executive and the Monitoring Officer for comment and consideration.

Subject to TDC's statutory officers being satisfied that the outputs of the report sufficiently address the IMO's recommendations, a final version of the report will be presented to the Council's General Purpose Committee.

It will also be necessary for the report to be provided to Grant Thornton.