

BOROUGH OF KINGS LYNN AND WEST NORFOLK

REPORT BY INDEPENDENT INQUIRY CHAIR INTO THE KLIC PROJECT

1 INTRODUCTION

- 1.1 I was asked by members and the Chief Executive of the Borough of Kings Lynn and West Norfolk Council (BKLWN) to undertake an independent inquiry into the partnership with NWES and its subsidiary and associated companies and those with common shareholders or directors regarding the award of and administration of the KLIC project and all aspects of their financial relationship with BKLWN. The terms of reference for that inquiry are attached as Appendix A.
- 1.2 The original intention was that I should chair an independent panel. It was however subsequently agreed that I should undertake this work myself.
- 1.3 I was asked to wait until the cross-party working group (CPWG) completed their report and then decide how best to take the inquiry forward. My understanding was and is that the Council wanted to assure the work done by the Council in understanding the issues raised.
- 1.4 I have read the report which went to the Audit Committee on 11th March 2019 as well as the CPWG terms of reference and their report which went to the Audit Committee on 10th February 2020. I have seen the papers made available to the CPWG as well as the draft minutes of the Audit Committee meeting.
- 1.5 This short report explains why in my view there is little or nothing to be gained from a further inquiry and why it does not appear to me to be in BKLWN's best interests for such an inquiry to be pursued.

2 PROFESSIONAL BACKGROUND

- 2.1 It might be helpful to set out in brief my professional background. I have been a qualified solicitor for 35 years. I have worked for the entirety of that time in the public sector, predominantly in local government. I was Director of Law and Administration and Monitoring Officer for the London Borough of Camden for 8 years. Since leaving Camden in 2006 I have undertaken a range of work including interim appointments in local government, one of which involved setting up and managing a significant investigation into a procurement issue which lasted for 11 months and resulted in 5 senior officers leaving the council. I have undertaken reviews and investigations, mostly but not entirely for local authorities, covering senior officer disciplinarys and grievances, member standards issues (one of which resulted in a change of leader), safeguarding (including child deaths) and deaths in health provision.
- 2.2 It is evident from this that I am not averse to taking on complicated matters and pursuing them to a conclusion. On the other hand, I am also of the view that

organisations need to know when they have done as much as they can to understand an issue and when further pursuit is unlikely to do anything other than keep a difficult issue in the public eye. In general, unless there are evident issues of fraud or malfeasance, once an authority has understood the problem and approved recommendations to make sure that the specific problems do not re-occur, there is little to be gained from continued investigation.

3 ANALYSIS

3.1 I am not going to set out the history of this matter which is well known to officers and members of the council. It is evident from both the initial Audit Committee report and the CPWG report that there were serious issues about the management of the KLIC project within the Council, loans provided by the Council and the financial standing of NWES. Those seem to be well understood and both reports have a series of recommendations which, if adopted, would mean that this kind of project management and due diligence failure should not happen again.

3.2 Concerns continue to be expressed (as recorded in the draft Audit Committee minutes) about what the money loaned by the Council was spent on, why the additional loan was made and why the specification of the building was higher than at least some officers and/or members of the council intended.

3.3 The terms of reference for the independent investigation (attached) and the CPWG whilst not identical cover almost the same ground. The following issues are in the independent investigation terms of reference but are not, explicitly in the CPWG terms of reference:

- *Identify whether and if so to what extent, the partnership extended to other companies (and if so which companies) within the NWES 'group', assess and report upon the impact/implications of this/these arrangements.*
- *Identify whether, and if so to what extent, the partnership arrangements encompassed other companies outside the NWES group of companies where common shareholders and/or directors can be identified. Assess and report upon the impact/implications of any such arrangements*

3.4 Although not explicitly set out in the CPWG terms of reference, their report does deal with the relationship between NWES, NALEP and the Council and the role of Nautilus. This means that the CPWG report has in practice covered the same ground as an independent investigation would cover.

3.5 As an independent investigator, I would only have access to information held by the Council. I could seek to obtain information held by third parties but would have no authority to access it. Similarly I could interview individuals who are current employees or members of the Council. Anyone else could only be interviewed if they agreed.

3.6 In order to investigate the concerns expressed in the draft minutes I would have had to understand what NWES was doing and obtain documents from that organisation. I

would have no authority to do that. The CPWG has looked at the arrangements for the additional loan and concluded that:

The loan of £250k is of special concern. Its authorisation was not considered by Council as the value was within the authority delegated to Cabinet, however, it was wrong to divorce this expenditure from the overall project, the value of which was in excess of Cabinet's delegated authority. Any naïveté should have dissipated by that stage of the project

- 3.7 That appears to me to be a perfectly reasonable conclusion to reach and I have seen nothing which would lead me to contradict this view.
- 3.8 In undertaking an independent investigation I would have looked at the same information available to the CPWG and do not believe that there is likely to be further information within the council which would shed a different light on what has so far been concluded. I could have interviewed current employees and members but this is in my experience unlikely to shed much if any further light on the matter This issue has been exhaustively looked at by the Council. In many ways I would commend them for their handling of the fallout (if not for the original project).
- 3.9 I do not disagree with the conclusions and recommendations of the Audit Committee and the CPWG. They appear to me to be comprehensive in terms of preventing similar problems in the future.
- 3.10 If this is the case, then the only purpose of having an independent investigation is, essentially, to mark the homework the council has already done. To initiate this step would potentially cost the council significant sums (depending on how extensive any investigation would need to be), would perpetuate the issue within the council and externally and undermine the council's own processes for resolving these issues. In the absence of any evidence or suggestion of fraud or other criminal acts, this is not a sensible use of the council's resources. If there is any evidence of criminal activity (and none has been revealed or even suggested) then the right agency to deal with this is the police.

4 CONCLUSION

- 4.1 In my view, the Council has a very good and comprehensive understanding of what went wrong. I cannot see that any useful purpose would be served by a further investigation by me (or any other independent investigator If what the council wanted was re-assurance that they have done as much as they can, then this report provides that re-assurance.

Alison Lowton
19th February 2020

KLIC Independent Inquiry – Terms of Reference and Appointment of Chair

Terms of Reference for the Independent Inquiry into the partnership with NWES and its subsidiary and associated companies and those with common shareholders or directors regarding the award of and administration of the KLIC project and all aspects of their financial relationship with BKLWN,

1. Utilising the Internal Audit Report presented to Audit Committee on 11 March, the associated background evidence and papers, together with any further information subsequently prepared for and presented to the Audit Committee Cross Party Working Group as source documentation, together with any further information/evidence gathered on behalf of the Inquiry Panel, undertake a review of the precise nature of the Partnership between the NWES LTD and BCKLWN

2. Identify whether and if so to what extent, the partnership extended to other companies (and if so which companies) within the NWES 'group', assess and report upon the impact/implications of this/these arrangements.

3. Identify whether, and if so to what extent, the partnership arrangements encompassed other companies outside the NWES group of companies where common shareholders and/or directors can be identified. Assess and report upon the impact/implications of any such arrangements

4. Consider and comment upon the administration of the KLIC project in terms of:-

- Procurement of professional team and construction company
- Administration/management of the build phase
- Subsequent operation and management of the KLIC building

Consider and report on the financial arrangements established between NWES and the BCKLWN and in particular the loan of £2,500,000 and subsequent loan of £250,000, the arrangements to secure the loan in the event of any repayment default, the due diligence conducted prior to the agreement of each loan, and the subsequent monitoring of the financial robustness of the NWES group of companies.

5. Consider and report on the member involvement in the establishment, approval, oversight and scrutiny of the arrangement between NWES and the BKLWN with regards to all aspects of the KLIC project.

6. Consider the 'lessons learned' set out in the Internal Audit Committee Task Group and make further recommendations as considered appropriate.

7. Consider the arrangements for the development, management and monitoring of large scale capital projects now adopted and utilised at the Borough Council and make appropriate recommendations for any further steps considered necessary, in terms of both the Officer arrangements and member oversight and determination.

8. In the context of the Council's Capital Strategy and Risk Management Strategy consider the Council's arrangement for the identification, management and mitigation of risk in relation to large scale capital projects and make recommendations as appropriate for enhancements.