

JC	General	
	<p>Can you please describe your involvement in the LRIE project?</p>	<p>Asked by Chief Executive to be involved. Project run by Chief Exec. DH closely involved prior to leaving WBC.</p> <p>DH a member of Corporate Board.</p>
	<p>At what stage did you / Legal Services become involved?</p>	<p>Involved in Parkway, Market Street, LRIE.</p> <p>Legal Services had been reduced by that time – approx 12 FTE.</p>

CR	Advice	Answers
1	Can you recall whether you were asked to provide legal advice in respect of the project?	<p>Regularly asked. DH advised personally or delegated to a member of the Legal team.</p> <p>Unable to recollect specifics.</p>
2	(If you were asked to advise) were there any specific elements that you were asked to advise upon?	<p>Gave advice on risk elements, probity, regulation.</p> <p>Legal rules and WBC rules.</p>
3	How involved were you, if at all, in advising the Council on the appropriate procurement route that was used to identify a developer for this project?	<p>Legal Service was involved. Procurement expertise held internally by Shiraz and small Procurement Team.</p> <p>Felt likely would have employed external counsel.</p> <p>The topic featured frequently at Corporate Board. Recalled producing a report over a weekend.</p> <p>Clear message from Chief Executive to get on with the project.</p>

<p>4</p>	<p>As the project progressed were you comfortable that this option remained the most appropriate route?</p> <p><b>Or</b></p> <p>Did the Council review the decision that OJEU did not apply to the project as that progressed, in order to consider if that remained the best option for progressing this?</p>	<p>DH – not necessarily, were many risks.</p> <p>Discussions held with Bond Dickinson re legal advice/action.</p> <p>Efforts were made to keep costs down, but difficult as things changed.</p> <p>DH had no clear recollection of detailed discussions re the OJEU process. Cost of OJEU could have been a factor on that decision.</p> <p><i>On what was the decision to not follow OJEU based – i.e. exempt as a land sale?</i></p> <p>DH – land sale one of many aspects. Would have highlighted risks of not following OJEU – WBC a risk averse authority. Felt he would have pushed back on this point.</p> <p><i>Who led the discussion/decisions around the OJEU process?</i></p> <p>DH stated that it was Nick Carter, Strutt and Parker, and potential partner.</p> <p>Recalled being given view that needed to proceed with minimal delay. Unclear why such urgency at the time. Although DH stated not 100% on this point.</p>
<p>5</p>	<p>We are aware that external legal advisers were involved in assisting the Council with this project. Can you describe the processes that were followed to appoint those external legal advisers?</p>	<p>DH recalled 3 quotes being received for Developer Agreement. Bond Dickinson were appointed. They held the necessary planning/procurement specialisms and had been used by WBC before, i.e. for CPOs.</p> <p>DH recommended Bond D to Nick Carter – was agreed. This followed usual practice. Shiraz and Mike Sullivan also involved. Bond D work was limited to a paper based exercise due to resource limitations.</p> <p>Shiraz involved as when needed, not throughout though.</p>
<p>6</p>	<p>In your opinion, was that an appropriate route by which to determine the most appropriate legal advisers?</p>	<p>See above.</p>

7	What were the external legal advisers asked to advise upon?	Procurement process
8	What advice did you receive regarding the project and how was that advice communicated to relevant officers and Members?	<p>David Holling sought views on the Developer Agreement. Alterations were made as a result.</p> <p>██</p> <p>Amended Developer Agreement presented to/provided to Nick, Corporate Board and Project Group.</p>
9	Can you recall whether you had any professional view on the advice received by the Council that it did not have to go through OJUE to appoint a partner?	<p>DH - No, as not a procurement lawyer.</p> <p>Mike Sullivan, Shiraz involved and they disagreed with some of the external advice provided which was challenged.</p> <p><i>Was the Council advised that OJEU unnecessary? What was the Bond Dickinson advice on that?</i></p> <p>SClarke – legal view/internal view that project amounted to a land transaction and outside of OJEU.</p> <p><i>Was it routine to seek a second opinion?</i></p> <p>DH – would do so, subject to available budget.</p> <p><i>Did budget restrictions prohibit the seeking of further advice?</i></p> <p>DH - yes, but can't remember specific examples</p> <p><i>Was there a budget for external advice?</i></p> <p>DH – not a set budget. Would need to find funds for external advice as and when needed.</p> <p>DH stated that costs were monitored, he reported legal costs to Nick every three weeks.</p>

10	Did you obtain external legal advice on this point?	See above – Bond D.
<b>JB</b>	<b>Costs</b>	
11	The expressions of interest received from the law firms contacted by Legal Services suggest that the project (in terms of negotiating and signing the DA) should have been delivered for considerably less than the actual costs incurred. Can you explain how that happened?	
12	Who approved the legal costs?	
13	How were the legal costs monitored?	
14	Can you detail how the escalating costs were communicated within the organisation?	

LD	Governance	
15	Can you recall the systems or processes which the Council had in place to ensure appropriate governance existed for these types of projects?	<p>DH – were many:</p> <ul style="list-style-type: none"> <li>- Legal SMT</li> <li>- Corporate Board</li> <li>- Project Board</li> <li>- Working Group (incl. Bill Bagnell/ Shiraz)</li> </ul> <p>Could not recall if Project Board/Working Group had formal agendas/minutes. Nor recollection of discussion of the project management methodology.</p>
16	Did you sit on a project group / board for this project? If so, can you recall who else was on that project group?	See above
17	The advice obtained indicates that there was a level of risk in the chosen route. How was that risk articulated to senior officers and members?	<p>Reports produced highlighted areas of risk. Recalled many risks - commerciality, letting ability of the site, potential challenges – including from existing owners/ lease holders already on the site who might want to remain. Responsibility for risks was co-ordinated.</p> <p><i>Consultation with businesses in response to their concerns? Was there an impact assessment for those businesses?</i></p> <p>DH recalled discussions. Some businesses had been on site for any many years. Was a very useful site for garages.</p>

18	Do you consider that the specialist legal advice, and the level of involvement of the external legal advisers was appropriate for a project of this scale?	<p>DH: Yes</p> <p><i>Was there the necessary budget?</i></p> <p>DH stated that there was not the experience or capacity internally. 12 FTE in Legal for the entire Council. Therefore necessary to seek external legal advice.</p> <p>However, DH thought that Bond Dickinson gave reasonable/good advice to the questions asked of them.</p> <p>Time restricted the potential to be more thorough.</p>
<b>JC</b>	<b>Learning</b>	
19	Do you have a view on where things could have been done better at the time?	<p>David Holling felt that more time should have been taken to work through/think through options. Not time to fully consider legal matters.</p> <p>Felt the project was rushed, WBC wanted to get site redeveloped.</p> <p>Stated that the pace of the project was regularly discussed with Nick Carter.</p> <p>Also political/Administration drive to redevelop and show that Newbury was more than just a market town.</p> <p><i>Further points?</i></p> <p>David Holling stated that a team of experts would need to be in place to handle a project of this size. Greater resource was needed. He would have liked more personal capacity to be involved.</p> <p>He felt that a request for more resource would have been turned down.</p>