

## **Suggested questions for the Secretary of State Robert Jenrick MP from the Housing, Communities and Local Government Committee as regards his approval of Westferry Printworks on the 14<sup>th</sup> January 2020**

As the Councillor for Canary Wharf ward in which the Printworks is located, having attended every public meeting about the scheme since it first went public in summer 2014 and having provided or sourced approximately 40-50% of the content you will have seen in the media (much of it via my Twitter <https://twitter.com/Andrewwood17>) I thought you might find useful the following suggested questions in **Red**. I would be happy to answer any questions you have or present to the Committee why this issue is so important to us on the Isle of Dogs. Of note none of the FOI's submitted in May have yet been answered by MHCLG, deadlines are now late July.

As a reminder the financial issues related to this development are:

- £45 million Community Infrastructure Levy (CIL), £ value from Richard Desmonds text
- £40 million approximate value of the drop in affordable housing from 35% down to 21%, £ value from an estimate by Tower Hamlets Council (hereafter LBTH)
- £0.5 million cost of each public inspection to public bodies alone
- Delay to provision of new secondary school on the Isle of Dogs = families departing

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### **1. Dinner 18<sup>th</sup> November 2019 at the Savoy Hotel questions**

Robert Jenrick, Secretary of State for MHCLG (hereafter Jenrick) was reported to have sat between Richard Desmond (hereafter Desmond) and Richard Martin, commercial director of Northern & Shell (company owned by Desmond). Also at the table were:

- Martin Ellice & Rob Sanderson, Northern & Shell joint managing directors
- David Grover, Mace, employed by Desmond to build the Printworks
- Henry Bellingham, a Conservative MP turned lobbyist
- Daily Express and Mirror editors

So of nine people at the table, five were Desmond or his employees, it is alleged Desmond paid for the whole table.

Details of what actually happened at the table has mainly come from reports by the Daily Mail and Sunday Times, including quotes from Desmond himself.

Objective: I believe a lot more was discussed at that dinner than has been stated. Jenrick with one exception (Local Plan discussion) has never put the facts about that dinner into the public domain himself, only responded to comments by others nor was it recorded or shared with other interested parties.

#### Question 1.1

**In the Daily Mail report of the 31st May Minister you were reported as having said that you shut the conversation down about the Westferry Printworks application at the fundraising**

dinner. Would you now wish to amend that statement and provide more information about what was discussed at the dinner given that you were sat between Richard Desmond and his Commercial Director?

Source: Daily Mail 31<sup>st</sup> May 2020 *“But Mr Jenrick insisted he shut the conversation down immediately....The developers did raise their application, but Mr Jenrick informed them that it would not be appropriate for them to discuss the matter with him, or for him to pass comment on it.”*

<https://www.dailymail.co.uk/news/article-8373141/Cabinet-minister-accused-bias-1billion-planning-row.html>

Subsequently it emerged that actually Desmond and Jenrick did discuss more than was suggested to the Daily Mail;

- Watched a video or images – see question below
- Exchanged phone numbers – see question below
- Agreed to meet at the site – see question below
- Desmond and Jenrick talked about the new Local Plan (which Jenrick says he was already aware of) – source letter from Jenrick to Clive Betts 24<sup>th</sup> June.

This is more than shutting down a conversation. See questions below about the planned site meeting and what he knew in November which suggests that Jenrick discussed a number of relevant planning issues that night.

Question 1.2

Richard Desmond said that you had watched the video of the planning application for 3 to 4 minutes, you have said that he only showed you some images, which is correct?

Background: The Times newspaper released 54 seconds of the 12-minute video, a CGI fly through of the completed site starting outside on Millharbour and then entering the site, it is a video you will need to watch for more than the 54 seconds to get a good sense of what the development looks like.

Sunday Times said, *“The disclosure came in a rare interview with Desmond, who said: “What I did was I showed him the video.” He said the minister watched it for “three or four minutes”, adding: “It’s quite long, so he got the gist.”....”* Desmond said Jenrick saw just enough of the 12 minutes to get the “gist” of it and thanked him.”

Source: <https://www.thetimes.co.uk/article/robert-jenrick-watched-housing-promo-video-on-richard-desmonds-phone-bqb0s8kz2>

Jenrick in the HoC 24<sup>th</sup> June *“He said that he showed me part of the video and I do not recall exactly what happened, but he did bring out his iPhone and show me some images of the development.”*

Source: <https://bit.ly/3eiNFRG>

Question 1.3 (amended 21<sup>st</sup> July)

At the dinner Minister you said you told Richard Desmond you could not discuss the planning application. But that evening by text message and the following day by email you agreed to another meeting with Richard Desmond which you agreed should be soon. Richard Desmonds personal assistant believed it was to be a site visit.

What were you going to discuss at the site visit if not the application which you said you could not discuss? Given Purdah you would have had no other source of information about the scheme or access to officials until after the election on the 12<sup>th</sup> December. You could not have discussed the scheme according to your statements in the House of Commons so why arrange a meeting 'soon' in your words if you could not discuss the scheme?

In the HoC on the 24<sup>th</sup> June Jenrick confirmed that he had been invited on a site visit at the dinner <https://bit.ly/2DyLkW1>

He also said, "I was very clear the last time I came to the House that I informed the developer that it was not appropriate to discuss the matter and I could not comment on it, and I believe that Mr Desmond has confirmed that."

<https://bit.ly/3eiNFRG>

Copy of text messages from Annex A MHCLG release of documents page 128

*Richard Desmond: Thanks Robert I really appreciate your text Will call your office tomorrow to arrange Very best Richard*

*Robert Jenrick: I'd like that. See you soon. Robert*

Email 19<sup>th</sup> November from Jenricks email account "Could you contact this lady and set up a meeting with Richard Desmond, owner of the express newspaper. Thanks Robert".

Subsequent emails show the meeting was to be at the Printworks site not in the Ministers office or the House of Commons.

20<sup>th</sup> November email from N&S "Robert is welcome here at our offices for a cup of tea first then they can head over to the development to take a quick look. David Grover will be in attendance (helpful to Robert on other matters, including cladding, and Richard Martin who Robert sat next to at the Carlton Dinner." Both were at the dinner.

Clearly Desmond believed it had been agreed to meet on site. That implies a greater discussion than has been suggested at the dinner.

The meeting was later arranged for the 19<sup>th</sup> December but cancelled.

Source: Annex A MHCLG release of documents 24<sup>th</sup> June pages 97 & 98 (email) and 128 (texts)

<https://www.gov.uk/government/publications/westferry-printworks-letters-to-hclg-select-committee>

#### Question 1.4

Why in your letter to Clive Betts MP on the 24<sup>th</sup> June did you state "I received a number of text messages from Mr Desmond following the dinner on 18 November 2019" rather than as the text messages show you initiated that text message conversation that night. Why did you start that text conversation?

Page 7 of letter from Jenrick to Clive Betts MP 24<sup>th</sup> June

Copy of text messages from Annex A MHCLG release of documents page 128

*Robert Jenrick: Good to spend time with you tonight Richard. See you again soon I hope.  
Robert Jenrick*

*Richard Desmond: Thanks Robert I really appreciate your text Will call your office tomorrow to arrange Very best*

This indicates an agreement to meet shortly.

Source for documents:

<https://www.gov.uk/government/publications/westferry-printworks-letters-to-hclg-select-committee>

## **2. Planning Training & Knowledge**

Background: Jenrick retrospectively claimed that viability was a material planning consideration quoting as an example the Thameslink rail development having to pay Community Infrastructure Levy (CIL)

But in planning training I have received or seen listed elsewhere the viability of a scheme is not usually a material planning consideration. The only person who was concerned about viability was Desmond, he did not want to pay the £45 million CIL.

Objective: when and why did Jenrick think that the viability of a scheme was a material planning consideration as it does not appear to have come from MHCLG.

A related issue is what training Jenrick received about the open mind test, when to recuse himself and when & how to report meeting developers.

Question 2.1

What planning training did you receive when appointed Secretary of State? Where you provided with a list of material planning considerations that would allow you to make a decision not in accordance with the statutory development plan?

Question 2.2

Did any of that training material list viability as a material planning consideration?

Question 2.3

In your planning training from MHCLG on your appointment or later what training did you receive as regards the circumstances under which you would have to recuse yourself from a planning decision and under what circumstances you would have to formally declare a relationship with a developer?

## **3. Declaration of fund-raising dinner to MHCLG officials**

Background:

In MHCLG Annex A documents released on the 24<sup>th</sup> June there is no written evidence of Jenrick informing his officials about the fund-raising dinner or of them documenting a discussion.

<https://www.gov.uk/government/publications/westferry-printworks-letters-to-hclg-select-committee>

In the Sunday Times article is this assertion *“He also failed to inform his most senior planning officials that he had met and texted Desmond, the former Daily Express owner, when he overruled them.”*

<https://www.thetimes.co.uk/article/were-going-ahead-with-this-jenrick-has-made-his-mind-up-lets-get-this-sorted-2rskbwhnf>

In the HoC Jenrick on the 24<sup>th</sup> June said, *“I informed my officials of my contact with Mr Desmond, and I will publish these messages for transparency.”* The messages with Desmond were published but not any message suggesting Jenrick had discussed with his own officials. Source: <https://bit.ly/2DyLkW1>

Question 3.1

When were your planning officials and your Permanent Secretary (as distinct from your private office) made aware of the fund-raising dinner with Richard Desmond and the subsequent text message exchanges?

Question 3.2

You say you informed your officials of your contact with Mr Desmond, whom did you inform and do you know if this was documented anywhere?

Question 3.3

The decision letter you issued on the 14<sup>th</sup> January 2020 contains on page 6 in Annex A, a list of representations which have been received since the inquiry. It does not list any meetings or exchange of information after the 1<sup>st</sup> November, why does it not mention your dinner with and text message exchanges with Richard Desmond later in November?

<https://www.gov.uk/government/publications/recovered-appeal-land-at-former-westferry-printworks-site-235-westferry-road-london-ref-3225474-14-january-2020>

#### **4. Knowledge of application in November**

Objective: it appears as if Jenrick knew more about the application than his own Private Office did in November.

An important point relates to this email on the 6<sup>th</sup> December within MHCLG *“To avoid delay, we will seek to issue before the Council adopts a new local plan on 15 January 2020, This will require a decision from the Minister by 7 January”* note they do not say new CIL rates. See email exchanges in Annex A on page 78.

This has been interpreted by Jenrick as related to the implementation of CIL.

But the new LBTH Local Plan and the new LBTH CIL rates are two separate processes. They came together by accident on the 15<sup>th</sup> January 2020 only because of delays to the Local Plan process. There is no evidence that MHCLG were aware of the new CIL rates till the following week. I would argue the new Local Plan was more supportive of development on this site than the old one so would not have been a concern to Desmond but the new CIL rates were.

But new Local Plans mean new policies and the possible need to reconsult and amend documents which MHCLG officers would be keen to avoid.

There was no evidence they were aware of the £45 million impact of the timing, see Viability questions.

Text 20<sup>th</sup> November Richard Desmond sent to the Minister a text which said, “*Good news finally the inspectors reports have gone to you today, we appreciate the speed as we don’t want to give Marxists loads of doe for nothing!*” page 128 of Annex A.

Email 20<sup>th</sup> November within MHCLG “*All - Just as things quieten down, urgent query re case above. I definitely remember the name from somewhere but cannot for the life of me find it on any of our forward look stuff ..... any clues please? Thanks*”

Email 20<sup>th</sup> November within MHCLG probably from a SPAD “*Morning (and you thought you wouldn’t hear from me over purdah!!)! Quick thing from me, Sos has flagged a case in Westferry London Docklands (redevelopment of a printworks or something like that?). He understands a ministerial decision on this is likely to be coming up soon and also that there may be some sensitivity with timing of final decision. Given this he has asked that advice be prepared for the first few days of the new Gov so a decision can be made and communicated before xmas. Does this all sound ok?*”

See email exchanges in Annex A on page 79 two days after the dinner and on the same day a site visit is being arranged (during a general election period!).

Where did Jenrick get that information from if not Desmond at the dinner? See also Viability for similar questions.

#### Question 4.1

Given that at that point the Inspectors report had not yet been issued and no detailed summary provided until the 13<sup>th</sup> December 2019. What was your knowledge of the Printworks application before the fundraising dinner on the 18<sup>th</sup> November 2019?

The inspectors report was not submitted to MHCLG until the 20<sup>th</sup> November.

#### Question 4.2

In the information released by MHCLG was an email dated 20<sup>th</sup> November, two days after the fundraising dinner from we believe a SPAD to your private office saying that you understood a Ministerial decision was due soon on the Printworks and that there was some sensitivity over timing of the final decision. From where did you get this information and what was the sensitivity about?

Interestingly officials were not sure of the name.

#### Question 4.3

From whom were you first aware that the timing of the final decision would have a significant financial impact given that the Summary of Issues produced by your officials on the 13<sup>th</sup> December 2019 do not mention any concerns about viability or a change in CIL rates affecting the scheme?

The report simply says “which includes a CIL Charging Schedule”

Question 4.4

In the middle of a general election campaign, three weeks before a decisive national vote why was this matter of such great importance to you?

### **5. Affordable Housing question**

Background: Emails show that MHCLG officers were trying at the last minute to resolve the issue of affordable housing (AH).

For example at 3.19pm on the 14<sup>th</sup> January asking each other “*What options do we have around the AH point? Can we impose a condition that the developer must look to increase the AH within the scheme?*” the decision was issued a few hours later.

The Planning Inspector clearly indicated that 21% affordable housing was too low. It had been submitted in July 2018 offering 35% affordable housing although the mix was not policy compliant, it was dropped to 21% in June 2019. The schedule 15 in the Unilateral Undertaking suggests that if CIL had to be paid that the affordable housing % would be reduced again so that there would be no loss of profit. A late stage review was described as providing limited benefit in the Ministers own decision letter.

Jenricks own decision letter of the 14<sup>th</sup> January 2020 says on page 6 “*He agrees with the Inspector that, on the balance of the available evidence, it is likely that the scheme could provide more affordable housing and that 21% does not therefore represent the maximum reasonable amount of affordable housing within the terms of Policy 3.12(a) of the LonP.*” Page 7 “*The Secretary of State agrees with the Inspector that a late stage review would meet the tests in Regulation 122(2) and that this would be of some benefit although its effect would be limited (IR537).*

<https://www.gov.uk/government/publications/recovered-appeal-land-at-former-westferry-printworks-site-235-westferry-road-london-ref-3225474-14-january-2020>

Question 5.1

Why where your planning officials on the afternoon of the 14<sup>th</sup> January still trying to find options to increase the affordable housing?

Question 5.2

Why did you not believe the planning inspectors evidence that the development could provide more then 21% affordable housing?

Question 5.3

Where you not aware of the large number of planning applications both locally and in London delivering the policy compliant 35% affordable housing, paying Community Infrastructure

Levy and providing land for schools like Poplar Gas Works and Skylines both close by in Tower Hamlets? Why did you believe that the Printworks by contrast could only deliver 21% affordable housing, pay no Levy and only provide land for a school?

Note the school was in the 2016 planning application, the larger 2018 application was for a smaller site that excluded the school but the two are still linked through the S106 agreement.

#### Question 5.4

In 2016 Sir Ed Lister when he made a previous planning decision on this site to approve a smaller scheme hired external viability consultants to re-calculate the appropriate affordable housing % after Richard Desmond dropped it from 14% down to 11%. They calculated that 20% was an affordable number which Sir Ed Lister then imposed as a condition of approval. Why did the Minister or the department not consider doing the same?

#### Question 5.5

Does the Department not have their own internal team advising on financial viability of developments as both the Mayor of London and Tower Hamlets Council now have? If not, why not?

#### Question 5.6

Was the Minister aware that the financial value of the drop in affordable housing from 35% down to 21% in June 2019 was worth approximately £40 million to the developer. If not, was he not curious about the financial impact of this change and the benefit to the developer?

## **6. Viability - where did concerns come from? Introduction amended 21<sup>st</sup> July**

Background. The only people to express concerns about the viability of the scheme in the documents were Desmond and Jenrick. They were NOT specifically mentioned in the Ministers decision letter of the 14<sup>th</sup> January. Although the letter did note the new CIL rates to be adopted on the 15<sup>th</sup> January the letter says nothing about why that might be important.

The only places in the documents where the viability was raised as an issue is in the text messages on the 20<sup>th</sup> November from Desmond to Jenrick on page 128 of Annex A “we appreciate the speed as we don’t want to give Marxists loads of doe for nothing!” & again on the 23<sup>rd</sup> December “We have to get the approval before January 15 otherwise payment of 45 million pounds to tower hamlets meaning we have to stop and reduce social housing”

Also in the letter from Jenrick to Clive Betts MP on the 24<sup>th</sup> June he says “The timing and effect of a pending new Tariff under the Community Infrastructure Levy is a valid material consideration that a decision-maker may take into account.” But nowhere is it mentioned as a valid material consideration in the 14<sup>th</sup> January decision letter from the Minister.



The decision letter does mention the report released by Mr Terrence Kemmann-Lane in October 2019 about his Examination of the proposed new Tower Hamlets Community Infrastructure Levy rates and concluded that they complied with national policy/guidance on viability. In summary he judged that the Printworks (which he mentioned 6 times) like other local sites could pay CIL and deliver 35% affordable housing. Jenrick believed different, why? <https://www.towerhamlets.gov.uk/Documents/Planning-and-building-control/Development-control/Planning-obligations/CILExaminerFinalReport.pdf>

In July 2018 Desmond believed that the scheme could be viable delivering 35% affordable housing, he later dropped this to 21%. This value of this change was later calculated as being worth £40 million. So it is unclear why paying CIL of £45 million made the scheme unviable.

Of note is that MHCLG officials even mis-named the change in CIL as being a change in London CIL not a change in Tower Hamlets CIL (see email 9<sup>th</sup> January 2020 page 22 Annex A), London CIL had changed in 2019, this suggests MHCLG officials were not that aware of the change in Tower Hamlets CIL.

#### Question 6.1

Nowhere in any of the MHCLG documentation released so far is any concern expressed by officials or the Planning Inspector that a delay in approval would trigger the payment of £45 million in Community Infrastructure Levy which would make the scheme unviable. Is it correct that no such specific guidance exists?

Not mentioned in the Annex A.

#### Question 6.2

On the 20<sup>th</sup> November Richard Desmond sent to the Minister a text which said, “*Good news finally the inspectors reports have gone to you today, we appreciate the speed as we don’t want to give Marxists loads of doe for nothing!*”, we assume a reference to the new Levy, then on the 23<sup>rd</sup> December Desmond sends another text “*Morning Robert How does the advice look? We have to get the approval before January 15 otherwise payment of 45 million pounds to tower hamlets meaning we have to stop and reduce social housing Thanks Robert look forward to speaking soon Best Richard*” although the Minister did not respond, this appears to be the only place in the documents where there a direct link made between the 15<sup>th</sup> January date and payment of £45 million. Given that the Minister did not respond is this because he already knew about this timing issue from earlier conversations with Richard Desmond?

Note there is a history of S106/CIL in Tower Hamlets not being spent or else not being spent in areas undergoing the most development which is maybe where the loads of doe for nothing comes from. Desmond may well believe (like me) that this money may not benefit the immediate area even if it had been paid.

Texts on page 128 of Annex A.

### Question 6.3

Was the Minister or MHCLG aware that Mr Terrence Kemmann-Lane released in October 2019 his Examination of the proposed new Tower Hamlets Community Infrastructure Levy rates and concluded that they complied with national policy/guidance on viability? And that Northern & Shell participated in that examination. In other words that an independent expert concluded that Westferry Printworks (which he named six times in his report) could pay the new Community Infrastructure Levy, deliver policy complaint affordable housing and remain viable. Why did the Minister believe otherwise?

### **7. Why did Jenrick make the decision?**

The Sunday Times report that this was the first time Jenrick went against his officials advice and that his officials tried to talk him out of approving it. MHCLG documents suggest the same, they all indicate that officials were opposed to this decision and were probably not prepared for it, see question about affordable housing emails on the 14<sup>th</sup> January.

### Question 7.1

If the documents released by MHCLG on the 24<sup>th</sup> June as well as the Sunday Times report of the 27<sup>th</sup> June are correct nobody at MHCLG was in favour of approving this application including Steve Quartermain, the then Chief Planning Officer and the planning inspector David Prentis. That they in fact tried to talk you out of it? Is this correct?

Source: <https://www.thetimes.co.uk/article/were-going-ahead-with-this-jenrick-has-made-his-mind-up-lets-get-this-sorted-2rskbwhnf>

### Question 7.2

Was this the first time you had over ruled the advice of your officials to approve a development against their advice?

Jenrick later provides a list of when he did so but these are all from March 2020 onwards.

### **8. Judicial Review & Legal Process**

In February 2020, the GLA and LBTH submitted two separate but linked judicial review challenges in the High Court to Robert Jenricks decision of the 14<sup>th</sup> January 2020 and his Decision Letter. Those documents plus the Consent Order both provide useful information especially the LBTH judicial review as it contains details of correspondence between the Jenrick (though a letter written on his behalf by Mr Kevin Brooks of the Government Legal Department) and LBTH.

Copies of documents here

<http://www.cllrandrewwood.com/news/westferry-printworks-judicial-review-documents>

### Question 8.1:

Why did you describe the Tower Hamlets Council judicial review request for specific disclosure as a “fishing expedition” in February to in May having to admit that your decision letter of the 14<sup>th</sup> January was “unlawful by reason of apparent bias and should be quashed”?

Source: Fishing expedition quote comes from LBTH judicial review page 11. Unlawful by reason of apparent bias quote from Consent Order page 3.

Question 8.2:

Did the High Court approve the LBTH request for specific disclosure of correspondence in their judicial review application, is this why you decided not to defend the application and admit 'apparent bias' in May?

Source: LBTH judicial review page 16 requested a copy of all correspondence (including emails) memoranda, files notes, text messaging or other records of communication, submissions and/or advice.

Question 8.3:

The first planning inspection in 2019 cost Tower Hamlets Council around £400,000, the GLA spent another £130,750 on legal and planning experts, the applicant and MHCLG will have also incurred substantial costs. Will MHCLG be paying for these costs if there is a 2<sup>nd</sup> inspection?

Source: GLA website & LBTH budget commentary.

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