

MIDDLESBROUGH COUNCIL

AGENDA ITEM 3

SPECIAL OVERVIEW AND SCRUTINY BOARD

10 FEBRUARY 2015

CALL IN

FUTURE DELIVERY MODEL FOR ENVIRONMENT, PROPERTY AND COMMERCIAL SERVICES

PURPOSE OF THE REPORT

1. Today's meeting has been arranged in accordance with Middlesbrough Council's Call In Procedure, to allow Members of the Overview and Scrutiny Board (OSB) the opportunity to review a decision made by the Executive.

RECOMMENDATION

2. That the Overview and Scrutiny Board considers the decisions of the Executive and determines whether those decisions should be referred back to the Executive for reconsideration.

EXECUTIVE DECISION – 20 January 2015

3. A meeting of the Executive was held on 20 January 2015. At that meeting, consideration was given to a report of the Executive Member for Environment in respect of the future delivery model for environment, property and commercial services.
4. The report outlined the progress with the Change Programme Project, which is examining Alternative Delivery Models (ADMs) for the future provision of the Council's Environment, Property and Commercial Services (EPCS) and sought approval to proceed to the next stages of the process.
5. The report went on to detail the following options that had been considered:
 - a) Middlesbrough Council maintains the status quo of the current business delivered by EPCS with potential for re-engineering and growing the business.
 - b) Middlesbrough Council forming a partnership with an established local authority owned Joint Venture Company (JVC), with profits.

- c) Middlesbrough Council outsourcing the business to the commercial sector.
 - d) Middlesbrough Council considers an in house bid from the existing management team to form a locally managed company to run these services.
6. A copy of the report submitted to the Executive is attached at **Appendix 1**.
 7. Following consideration of the submitted report, the Executive approved the recommendations included in the report, as follows:
 - i. That the appropriate senior officer enter into a formal dialogue with Norse, carry out a due diligence exercise and develop a detailed business case, to assess the viability of creating a JVC between Middlesbrough Council and Norse Commercial Services Ltd, for the future delivery of Environment, Property and Commercial Services; and
 - ii. That any future changes in the services to be included within the scope of the JVC that might be considered appropriate be authorised by the Executive Member.
 8. The decisions were supported by the following reasons:
 - i. This will result in a further Executive report which will detail the final recommended scope of services to be delivered by the JVC, the level and standards to which those services would be delivered, the anticipated cost savings and other benefits to the Council.
 - ii. Should the report recommend that a JVC is formed, it will also detail the timescale for mobilisation of the new service provision following the Executive Decision to proceed.
 - iii. This will ensure that the most effective model for future provision of EPCS is delivered for the Council, in order to support the principles of the Change Programme whilst delivering the required budget reductions, contributing to the Council's strategic outcomes and delivering the maximum levels of benefit for Middlesbrough.

CALL IN PROCEDURE

9. The power to call in a decision of a local authority executive body was introduced under the Local Government Act 2000. The process is intended to hold decision makers to account and ensure that executive powers are discharged properly. Call In ensures that a decision can be reviewed and reconsidered before it is implemented.
10. The procedure allows Members the opportunity to call in decisions for review by the Overview and Scrutiny Board as follows:
 - A decision made by The Executive;
 - A decision made by an individual Member of the Executive;
 - A decision made by a committee or sub-committee of the Executive;

- A key decision made by an officer with delegated authority from the Executive; or
 - A decision made under joint arrangements.
11. The process is initiated by five Members of the Council requesting a decision to be reviewed within five working days following publication of the decision.
12. Following the meeting of the Executive on 20 January 2015, and in accordance with the agreed procedure, seven Members have supported the request to call in the decisions outlined above. The reasons for the call in, as shown on the form submitted to the Council's Monitoring Officer, are as follows:
- i. This is a multi-million pound contract per year, yet this Council is seeking to have it rushed through in just 13 weeks. Whilst we keep an open mind at this stage as to whether or not we feel this is right for Middlesbrough it has to be said that "rushing" this through without proper and thorough consideration is a mistake, one that the town could repent if it goes wrong. Other Norse operations such as Medway Norse took 9 months for the initial investigations to consider if it was suitable for them, why is it that Middlesbrough are seeking to rush this important piece of work through.
 - ii. These propose changes are a massive move away from 'in-house' services, therefore it is essential that it goes out to in-depth public consultation. We need detailed professional presentations given to all Community Councils to ensure public "buy in", doing things with people and not at them would be a much more democratic and hopefully successful way forward. We also require a full presentation from the trade unions, with particular reference to the implications of job security, working conditions and pension rights.
 - iii. These proposals are wrong in principle in that this Council has a history of setting up ALMOs and 'Not for Profit' organisations such as Erimus/CVL, so if it's so good an idea then why are we carrying it out ourselves? If done at all this should surely become a part of the wider consultation with all 5 Teesside unitary authorities and their workforce representatives.
 - iv. Committing a new council in May to a lengthy multi-million pound contract that will not have had the opportunity to consider the implications is not true democracy at work. There is going to be a change in the Mayoral role (with Ray Mallon not standing for election), also a possible change of those in charge of the Council and indeed the Country, all matters that could affect in a big way this process.
 - v. Information must be provided as to who will gain from the 'profits', and will this contract be used as a spring board to 'target' other nearby local authorities.

13. Upon legal advice the aforementioned paragraphs i, ii, iv and v (above) are not deemed to be valid reasons for the decision to be called-in because those elements are not recorded as part of the decision taken by the Executive, and would instead be part of the business case that is being developed or the implementation of a subsequent Executive decision; however paragraph iii does relate to the decision taken, and is therefore a valid reason to submit a call-in request. The lead petitioner has been informed of this accordingly.
14. To assist the Overview and Scrutiny Board in the Call In process, Councillor T Harvey, Executive Member for Environment and appropriate Council officers will be present at the meeting. The Executive Member and officers will explain the reasons and rationale behind the decisions that were taken. The Member who initiated the call in will also be present to explain their views and concerns in respect of the decisions.
15. A copy of the procedure to be followed at the meeting is attached at **Appendix 2**.
16. Having considered the submitted information, the Overview and Scrutiny Board has two courses of action available:
 - i. To refer the decisions back to the Executive for reconsideration. In that case, OSB should set out in writing the nature of its concerns about the decisions.
 - ii. To determine that it is satisfied with the decision making process that was followed and the decisions that were taken. In that event, no further action would be necessary and the Executive decisions could be implemented immediately.
17. In the event that the decision is referred back to the Executive a further meeting of the Executive would be arranged within ten further working days. The Executive would then make a final decision in the light of any recommendations made by OSB.
18. Where the recommendations of the OSB are not accepted in full by the relevant Executive body, the body should notify the OSB of this and give reasons for not accepting the recommendations.

PROPOSED CALL- IN TIMETABLE

19. To ensure the Call-In procedure is adhered to, the following Call-In timetable is as outlined below:

MEETING	DATE/TIME	PURPOSE
Special Meeting - Overview and Scrutiny Board	10 February 4pm	To review the decisions taken by the Executive on 20 January 2015, in accordance with the Call-In Procedure.

Executive Meeting	27 February 2015	To re-consider the decision (if required to do so)
Overview and Scrutiny Board	3 March 2015	To notify the OSB of the outcome of the Call In

BACKGROUND PAPERS

20. The following background papers were used in the preparation of this report:

- Middlesbrough Council's Constitution/Call In Procedure.
- Middlesbrough Council's Scrutiny Handbook.
- Report to Executive – 20 January 2015.

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