

OVERVIEW AND SCRUTINY BOARD

A meeting of the Overview and Scrutiny Board was held on 20 April 2017.

PRESENT: Councillors E Dryden, A Hellaoui, T Higgins, C Hobson, L Lewis, T Mawston, J McGee, L McGloin, D Rooney, J Sharrocks, J A Walker and M Walters

PRESENT BY INVITATION: Councillor B A Hubbard - Presenting Call-In
Councillor J Rathmell - Presenting Call-In
Councillor C M Rooney - Deputy Mayor and Executive Member for Regeneration and Chair of Executive Sub Committee for Property
Councillor N J Walker - Executive Member for Finance and Governance

ALSO IN ATTENDANCE: Councillor D Coupe, Councillor T Harvey, Councillor J Hobson, Councillor T Lawton, Councillor J McTigue, Councillor M Saunders and Mr M Watson

OFFICERS: J Bromiley, B Carr, A Hoy, C Lunn, A Pain, T Parkinson, S Reynolds and G Wijesinghe

APOLOGIES FOR ABSENCE None.

DECLARATIONS OF INTERESTS

Name of Member	Type of Interest	Item/Nature of Interest
Councillor L McGloin	Non Pecuniary	Trustee of Board of one of the initial bidders

16/66 **CALL IN – FUTURE OF SOUTHLANDS CENTRE**

The Chair outlined the purpose of the meeting and the remit of the Board in terms of the Call-In.

The Democratic Services Officer submitted a report which detailed the:-

- decisions taken by the Executive Sub-Committee for Property on 22 March 2017;
- Council's Call In Procedure; and
- reasons for the Call In, as shown on the form submitted to the Council's Monitoring Officer in relation to decisions concerning the future of the Southlands Centre .

Appended were the report considered by the Executive Sub-Committee for Property on 22 March 2017 and the minutes of that meeting. Following distribution of the agenda, two further documents were circulated, a Frequently Asked Questions document and a breakdown of Income and Expenditure Loss in respect of the Southlands Centre, in response to questions that had been raised at the meeting of the Executive Sub-Committee for Property on 22 March 2017.

The decision of the Executive Sub-Committee for Property was:-

That;

- a) discussions with Bidder A on the sale of the building and adjacent land for use as a business centre and community facility be ceased;
- b) officers be instructed to explore viable uses for the Southlands Centre site that were consistent with the Council's strategic priorities and produce detailed options for the future of the site and the surrounding area to be brought to Executive for consideration by September 2017;
- c) officers of the Economic Development and Communities directorate should work individually with tenants and community groups to assist them with their transition from the Southlands Centre; and that

d) the Strategic Director for Finance, Governance and Support, in consultation with the Deputy Mayor and Executive Member for Regeneration, be delegated responsibility for the detailed aspects of the package.

The decision was supported by the following reasons:

- The current liabilities both in terms of reactive maintenance costs, employee costs and backlog of improvements needed, made Southlands an unsustainable service provision without further major investment and substantial rent increases. It was likely that such investment would still fail to make the facility sustainable in the medium term.
- The proposal to dispose of the site to Bidder A did not guarantee that the centre would continue to exist in its current capacity in the medium term.
- The proposal did not represent a value for money capital receipt in relation to the asset.
- The recommendations sought to assist the 49 local businesses and 21 community activities to continue to provide economic and social resilience in a deprived area of Middlesbrough.
- The recommendation to explore viable uses for the site gave the maximum chance of the Council to be able to utilise the site for the most beneficial use for Middlesbrough.

The reasons for the call in, as submitted to the Council's Monitoring Officer, were as follows:

1. That MBC did not exhaust all possible opportunities with Bidder A, e.g. in the same way Council officers did when entering negotiations with the preferred bidder of the TAD Centre.
2. Officers narrowed opportunities for future viable users of the Southlands Centre, failing the Council's Strategic priorities.
3. MBC failed to consider social value.
4. Decision was inconsistent with the TAD Centre decision making process.
5. Failure to demonstrate that the decision was in accordance with Council policy and procedure.
6. Agreed financial package (£100,000) was insufficient and officers would not be able to offer alternative accommodation to all business users.

The Service Department and Executive Member presented the case for the decisions.

The Executive Member for Finance and Governance advised that the Enterprise Centre part of the Southlands Centre was intended for short term business start ups with subsidised rents. Some businesses had been operating from the centre for many years because of the shortage in new businesses coming forward. The Southlands Centre currently created an annual pressure of £131,000 and it was estimated that if the centre was to remain open for the medium term, then significant restructuring of staff levels would be needed to maintain the site and it was estimated that the annual pressure would increase to £200k per annum.

The Executive Sub Committee for Property and the Council's aim was for the Southlands Centre to remain open. Executive approval had been given to seek detailed business cases from four bidders for the future management of the Southlands Centre. Only one of the bidders out of the four that had submitted an expression of interest, had put forward a business case and the other bidders did not give reasons for not putting forward a proposal. No members were involved in the negotiation process, only officers.

When taking into account the asset valuation report and the fact that the bidder was unable to give a long-term assurance over the future use of the building as a business and enterprise centre, the offer was not considered to offer best value especially when social value was taken into account.

The bid centred upon a freehold purchase of the site for £150,000 with a £350,000 investment in the building, which could result in the bidder selling the freehold for alternative use and the Council would have no influence over the future development of the site and this was a key point for members of the Executive Sub Committee for Property. In respect of the scoring matrix, 30% of the score was awarded for financial consideration and 32.5% for social value.

The Executive Sub Committee for Property had been advised that the Council operated other business centres within the town with subsidised rent available. The Sub Committee had proposed that the Council work with the businesses, currently operating out of the Southlands Centre, on an individual basis, to identify suitable alternative accommodation and facilitate transition, including one-off, support where available. The Executive had also authorised the use of up to £100,000 from the Council's Change Fund to facilitate this work.

The Ward Councillors had received updates with regard to the future of the Southlands Centre since January 2016. The Executive Member advised that there had been no issues or concerns raised previously from the Ward Councillors or the bidders with regard to the process.

The Strategic Director for Finance, Governance and Support provided information in relation to Point 1 of the reasons for the call-in.

The Committee was advised that following the closure of the deadline for the bids, two officer meetings had been held with bidder A on 2 November 2016 and 8 February 2017. No increase in the original freehold offer had been made by bidder A and they were unable to provide a long term guarantee that they could secure a sustainable level of income, in view of the condition of the building and the likely market for a business centre in that location. As a consequence there was ultimately no firm assurance that the centre would remain both as a business and community hub in East Middlesbrough in the longer term.

Bidder A's proposal was clear that the bidder required an exit strategy if the centre did not prove to be viable in the medium to long term. It was for this reason that the bidder was unwilling to agree to covenants being placed on alternative use of the site should the site be sold on for alternative use.

In relation to point 6, as a starting point, £100,000 had been set aside to work with businesses through the transition and relocation process on a 1 to 1 basis to assess individual needs.

The Head of Asset Management provided information in respect of Points 2, 4 and 5 of the reasons for call-in.

In respect of point 2, the Board was advised that adverts had been placed in various publications and the website to seek expressions of interest to explore viable future uses for the Southlands Centre site. Potential bidders were asked to submit expressions of interest between 15 February and 5 April 2016. The proposed timetable was shared with the Ward Councillors on 20 January 2016.

In respect of points 4 and 5 of the reasons for call-in that the decision was inconsistent with the TAD Centre decision making process, Members were advised that the Southlands Centre site process was a two Stage process which was in line with the process used for the TAD centre and Hemlington Recreation Centre. The process was outlined fully to the Ward Councillors and regular updates were provided throughout the process and the Head of Asset Management advised that he was not aware of any concerns regarding the process. The disposal process was used on many disposals.

The Community Regeneration Manager provided information in respect of Point 3 of the reasons for the call-in.

The Board was advised that when the Council requested expressions of interest, they specifically asked bidders to consider the impact and benefits of the management of the centre. Calls were received from people wanting to use the building for uses other than

community use. The four bidders were asked to submit innovative third party proposals that concentrated on the vibrant use of the Southlands Centre from a social perspective.

In terms of the scoring of the bids, 12.5% of the score was specifically for community considerations and 10% was allocated for one planet living strategy looking at culture and community, social, health and happiness. When the business case for bidder A was considered from a community and social perspective, it was a credible proposal, so the Council tried to negotiate with the bidder but the bidder was not prepared to move from his initial financial proposals.

The Council had already started to discuss with businesses and community groups possible exit strategies. Each business and community group would be contacted on an individual basis to discuss their individual needs. Some businesses had received offers to relocate to existing premises.

Councillor Hubbard posed the following questions:-

1. Do you believe that the Council's policies and procedures in relation to asset management have been carried out?

In response to questions from Councillor Hubbard:-

The Executive Member for Finance and Governance advised that she was not aware of what the Councillor was referring to, but in her view, as far as she was aware the Council had followed the policies and procedures in respect of asset management.

Councillor Hubbard advised that the policy in respect of Asset Management was introduced in December 2016. The Executive Member for Finance and Governance advised that the process regarding the future of the Southlands Centre started before the Asset Management Policy was introduced.

The Strategic Director of Finance, Governance and Support advised that he believed the policies and procedures were followed but he pointed out that this was not a disposal, the recommendation in respect of the Southlands Centre was not to dispose. The Head of Asset Management and the Community Regeneration Manager both confirmed that they believed that the Council's policies and procedures in respect of asset management had been followed.

The Deputy Mayor and Executive Member for Regeneration confirmed that he believed that the Council's policies and procedures in respect of asset management had been followed.

Councillor Rathmell stated that at a recent employment tribunal, the Chief Executive and the Head of Legal Democratic Services had accepted that the Head of Legal and Democratic Services had attended meetings and provided legal advice and in the Councillor's view, he had provided incorrect legal advice. He queried how the Board could rely on the legal advice included in the reports to make the decision.

The Executive Member for Finance and Governance stated that the statement provided by Councillor Rathmell did not relate to the evidence provided by the Executive Member and the officers from Finance, Governance and Support.

The Chair of Overview and Scrutiny Board advised that the call-in related to the Southlands Centre and she clarified if Councillor Rathmell was saying that the legal advice provided today was flawed. Councillor Rathmell advised that he was not saying that, but he wanted to know if Councillor Rooney was saying that the advice provided was not flawed. The Executive Member advised that the report was in her name and not in the Deputy Mayor and Executive Member for Regeneration.

A Councillor stated that the Call-in procedure was clear. If any member had concerns regarding the content of a report there were other avenues to pursue the issue. The meeting of the Overview and Scrutiny Board had been called to consider the call-in of a decision made by the Executive Sub Committee for Property with regard to the future of the Southlands

Centre.

Councillor Rathmell queried that bearing in mind that Deloittes and Ernst Young were currently looking at asset disposals, if they were aware that no independent valuation of the Southlands Centre site had been carried out.

The Executive Member for Finance and Governance reiterated the fact that no decision to dispose of the Southlands centre site had been made.

Councillor Hubbard queried whether when the Council held discussions with bidder A, whether the discussions were with a view to sell the site.

The Executive Member for Finance and Governance advised that the negotiations were to determine whether someone could operate the centre, along the lines of its current operation. It could be operated on a freehold basis, leasehold basis or as a community asset transfer. The report in January 2016 did not set out to dispose of the centre.

The Chair invited Councillor Hubbard to present the case for the call-in.

Prior to presenting the case for call-in, Councillor Hubbard circulated the following documentation to members of the Board:-

Appendix 1 - the Southlands Centre sale particulars;

Appendix 2 - the Southlands Centre Asset Valuation 2012;

Appendix 3 - Middlesbrough Council Sport and Leisure Facility Management Options Appraisal dated August 2014;

Appendix 4 - LMT Informal Briefing paper regarding Property/Asset Disposal process dated 2 October 2014;

Appendix 5 - Corporate Executive Management Team Informal Briefing paper regarding the Disposal of TAD Centre/MTLC dated 20 November 2014;

Appendix 6 - Executive Report regarding the Management of the Council's Land and Property Assets dated 17 March 2015;

Appendix 7 - Executive Sub Committee for Property report regarding the TAD Centre Complex, Ormesby Road, Middlesbrough, TS3 7SF - Proposed Freehold Sale dated 12 August 2015;

Appendix 8 - Notes of a meeting with Tom Punton, Assistant Director, Property and Commercial and Martin Shepherd, Head of Asset Management and representatives from businesses operating out of the Southlands Centre dated 16 December 2015;

Appendix 9 - Executive Report regarding Expressions of Interest for Southlands Centre dated 15 June 2016;

Appendix 10 - Indicative Assessment Matrix - Informal Tender (FZ 235/90);

Appendix 11 - Minutes of the meeting of the Executive Sub Committee for Property held on 15 June 2016;

Appendix 12 - Executive Sub Committee for Property Report regarding Asset Disposal Policy dated 7 December 2016;

Appendix 13 - Minutes of the meeting of the Executive Sub Committee for Property held on 7 December 2016;

Appendix 14 - Copy of a flow chart showing the Asset Disposal Process;

Appendix 15 - Copy of One Stop Case Reference 43790 requesting a copy of asset valuation undertaken by Kier in 2012 and querying whether the Council intended to have the Southlands Centre valued again;

Appendix 16 - Executive Sub Committee for Property report regarding the Future of Southlands Centre dated 22 March 2017.

Councillor Hubbard then highlighted the main reasons for the Call In:-

Councillor Hubbard stated that the Southlands Centre was the heart of East Middlesbrough, a 'vibrant community' as was stated in the Council's own sales particulars. Councillor Hubbard referred to Appendix 1, under the heading of Tenure, paragraph 3 which stated that the business centre had a 93% occupancy, demonstrating the success, need and the demand, for the centre in this location.

Councillor Hubbard stated that the Council had made a formal decision to dispose of the centre in June 2016 however a Corporate Management report dated 20 November 2014 (Appendix 5) did show that the Council was considering the closure of the centre in 2014, calculating how many of the businesses located at the Southlands Centre could move to the TAD centre, which would provide tenants for the new owner of the TAD Centre.

Councillor Hubbard stated that the Council, when answering questions regarding the sale of the TAD centre, at the Overview and Scrutiny Board meeting, held in September 2015, to consider the Call-In of the Executive Sub Committee for Property decision, regarding the sale of the TAD Centre, stated that the preferred bidder had 30 businesses lined up for the TAD Centre. In response to a query with regard to which businesses they were, the officer at that Committee had stated that he did not know. Councillor Hubbard stated that two years later the 30 businesses were not located at the TAD Centre and he queried whether they were the businesses currently located at the Southlands Centre. (Appendix 7 para 21).

Councillor Hubbard stated that the businesses located in the Southlands Centre had been advised that they must be out of the centre by September 2017. Councillor Hubbard advised the Board that the Executive powers had not been discharged properly, which rendered the decision making process, fundamentally flawed.

The Board was advised that the members that had instigated the Call-In had identified a number of material flaws in the process, in relation to the Southlands Centre, which in their view, was a breach of the general treaty principles of openness, fairness and transparency. The flaws had been repeatedly identified by internal and external auditors and despite the implementation of significant policy changes, in relation to asset disposals, those flaws were still clearly evident in relation to the Southlands Centre.

Councillor Hubbard advised that the view of a lawyer was that the Council had left itself open to challenge, by way of Judicial Review or Injunctive Relief, if it did not review the events to date. The Board was reminded by Councillor Hubbard that there was still time for a procurement complaint to be lodged.

Councillor Hubbard identified the following alleged failings:-

1. Failure to demonstrate that the decision was in accordance with Council Policy and Procedure - the Council had failed to carry out a business disposal case.
2. Failure to demonstrate that the decision was in accordance with Council Policy and Procedure - the Council had failed to obtain an independent valuation at the time it decided to dispose of the asset. The last time the Council had carried out a valuation of the Southlands Centre was on 1 April 2012.
3. Failure to demonstrate that the decision was in accordance with the Council Policy and Procedure - on 15 June 2016, the Council had decided to market the Southlands Centre and had approved a scoring matrix to be used in the tender process. The matrix included at

Appendix 10 did not add up. It showed 900 points but it actually added up to 1000 points. The scoring matrix approved by Executive Sub Committee for Property was not the one used in the tender documentation.

4. Value for Money - one of the reasons given for not proceeding with the bid made, was that it did not represent a value for money capital receipt (as stated in the Executive Sub Committee for Property report dated 22 March 2017). Councillor Hubbard stated that this was not a valid reason as the Council did not have an up to date market valuation, and could not therefore establish value for money, which was a legal requirement and was detailed in the Asset Disposal Report, submitted to Executive Sub Committee for Property on 7 December 2016. (Appendix 12, paragraph 37).

A representative of one of the businesses located in the Southlands Centre was invited to speak to the Board.

Members were advised that the Southlands Centre was a fantastic unique building which mixed social and enterprise units under one roof. The closure of the Southlands Centre was likely to result in an increase in anti-social behaviour.

The businesses located in the centre had received a letter from the Head of Asset Management dated 20 November 2014 advising that the Southlands Centre would be closed and suggesting the TAD Centre as an alternative site for businesses to relocate.

The Board was advised that Johnson School of Dance had been located at the Southlands Centre for over six years and it brought children from all over the town to the centre. The dance school held regional competitions at the centre. The Southlands Centre was ideal because many of the other venues in the town such as Middlesbrough Sports Village did not have a stage, and children would miss out if the centre was to be closed.

The Board was advised that one of the organisations based in Southlands Centre, was Street League; an organisation that worked with 16 to 25-year-olds who were not in employment, education and training (NEET). The North east had the highest number of NEETS and Middlesbrough had the highest percentage of deprived people. The organisation would need to find an alternative venue and had received offers to move to Stockton and Hartlepool.

The organisation had helped 61 people back into work which resulted in savings of £385 and there was less anti-social behaviour.

The Council had supported Street League in the past and the representative advised that the Board should take into account the value of Street League to the young people. The savings at Street League should not be ignored.

Reference was made to the figures that had been shared in respect of the profit and loss at the Southlands Centre. The representative pointed to the figures for the current year and advised that the Southlands Centre was currently losing less than when it had the support of the sports side. He requested that the Council re-examine the figures again for the social revenue of the centre.

The Executive Member for Finance and Governance advised that one or two flaws had been identified with the NEPO portal. Councillor Hubbard advised that the flaw was with the scoring matrix. The Executive Member queried why the member had failed to raise any concerns or questions at member briefings or at the Executive Sub Committee for Property when the issue was considered. The member advised that the flaws were identified when he had looked into the matter further.

The Executive Member advised that the report that was submitted to the Executive Sub Committee for Property in June 2016, sought outline expressions of interest to identify third party organisations who could be capable of potentially taking over the management and operation of the facilities for the future. The Council's objective was to seek innovative third party proposals to enhance the existing community and business offers, together with providing broad details of how new significant opportunities could be sought. There had been

no mention in the report that the Council intended to dispose of the Southlands Centre. The subsequent report to the Executive Sub Committee for Property in March 2017 did not contain any recommendations to dispose of the property.

Councillor Hubbard queried whether the Executive Member was stating that there had been no intention to dispose of the centre.

The Executive Member stated that there was a lack of clarity in respect of the reasons for the call-in.

Councillor Rathmell stated that members who called in decisions were limited by time.

The Chair of Overview and Scrutiny Board invited members to pose any questions. Members of the Overview and Scrutiny Board posed questions of all parties, the responses from which focussed on the following:-

A member stated that in the Councillor's opening address, he had stated that there was 94% occupancy of the building, and he queried what period of time that occupancy related to. The Community Regeneration Manager stated that the current level of occupancy was 60%.

Councillor Hubbard queried whether officers could provide the dates for when the occupancy was at 94%.

A member queried whether the tender documentation that was circulated related to freehold, leasehold or community asset transfer. It was confirmed that this was the case.

A member queried how many businesses the Community Regeneration Manager had attracted to the premises. The manager confirmed that he had attracted five businesses to the centre. The member stated that with the amount of social activities being held at the premises and the vibrancy of the centre whether the manager had not thought of building the centre up to make a profit.

The Community Regeneration Manager stated that the premises had 28 different stakeholders but the businesses currently located at the premises were heavily subsidised and if the centre was to raise the rental costs, the premises might not appear to be such an attractive proposition.

A member queried how many other centres could take the businesses on. The Board was advised that a mapping exercise had been carried out and Thorntree Hub, Pallister Park, Erimus and Glastonbury Park had been identified.

The Board was advised that an independent survey had been carried out and £600,000 of essential repairs had been identified and a further £1,335,000 worth of desirable works needed to sustain the building long-term. A member indicated that she had visited the premises and it appeared that the roof was the only essential repair required.

A member stated that the original purpose of the Southlands Centre was for business start-ups but because of the lack of new businesses taking up space in the centre, many of the original businesses remained in the centre. He queried how the rent charged at the Southlands Centre compared to the private sector rents and whether there was a rent review procedure in place in respect of the Southlands Centre.

The idea was for businesses to move into the Southlands Centre and develop and then move on to an industrial estate. The Southlands Centre had to meet the budget set to run the centre so businesses had been allowed to remain at the centre and some had occupied the premises for over twenty years.

The Board was advised that the rents at the Southlands Centre were heavily subsidised compared to private sector rents. A member queried whether any of the tenants at the centre had been consulted with regard to the possibility of raising rents in line with private sector rents.

The Board was advised that rents were increased in line with inflation but it was considered that if the rents were to be increased in line with private sector rents, many of the businesses would vacate the premises.

A member queried whether the premises were used for community events. Members were advised that the premises were sometimes used for Asian weddings and dance festivals because the charges levied for such events were substantially lower than other venues.

A member queried whether it was thought that enough was being done to attract new businesses to the centre and whether more advertising of the space should have been carried out. Members were advised that it was difficult when the Council were looking for someone to take the premises on.

The Strategic Director for Finance, Governance and Support advised that based on the current occupancy of the building, the rents would have to be increased by 50% and if the current occupancy was to be increased to 75% the rent would need to be increased by approximately 42%.

A member queried whether there were 42 businesses located at the centre. The Community Regeneration Manager advised that there was currently 42 businesses located in the centre. A member queried whether there was any possibility of going back out to tender. It was pointed out that one of the recommendations was that officers explore the viability of the centre.

A concern was that if a bidder took on the Southlands Centre that they would fail to operate it for community and business use or would knock the building down because of the amount of money required to bring the building back to a viable position.

A member queried whether the Community Regeneration Manager had ever discussed with the business owners, enterprise and social people a possible increase in rents. The representative from the business owners advised that there had been no group discussions or any proposals to increase rents.

A member suggested that the only part of the call-in that could be referred back was the figure of £100k that had been set aside to assist businesses to relocate.

A member stated that any Council decision could be subject to Judicial Review provided that there was evidence and reasons why the decision should be judicially reviewed. Councillor Hubbard stated that the facts that had been provided as part of the reasons why the decision should not be called-in could be challenged because the Council had failed to follow correct policy and procedure.

The Executive Member pointed out that there had been no decision made to dispose of the Southlands Centre and if a decision had been made then the Council would have followed the Asset Disposal Policy. Detailed business cases had been sought from four bidders but there had been no decision to dispose of the property.

Councillor Hubbard stated that the Council had tried to dispose of the asset when it invited the four bidders to submit business cases. A member requested whether legal could provide an opinion on the disposal process. The Council's legal representative advised that there was not a set policy that applied to the disposal of each asset.

The Strategic Director for Finance, Governance and Support advised that the policy had been revised in December and if the Council had made a decision to dispose of the Southlands Centre, an asset disposal case would have been put forward. The recommendation of the Executive Sub Committee for Property that had been agreed was to cease discussions with Bidder A on the sale of the building and adjacent land for use as a business centre.

Councillor Hubbard pointed out that no valuation of the building had been carried out in the previous two years and he queried how the Council had decided on the make-up of the

scoring matrix.

A member stated that she could not see anything in the recommendations of the Executive Sub Committee for Property report of 22 March 2017 that related to a disposal of the property. Reference was made to paragraph 12 on page 12, which stated "Bidder A's proposal was clear that the bidder required an exit strategy should the centre not prove to be viable in the medium to long term. It was for this reason that the bidder was unwilling to agree to covenants being placed on alternative use of the site or overage arrangements should the site be sold on for alternative use". The member stated that if Bidder A had taken the Southlands Centre over, he would have been able to do what he wished with the centre.

Councillor Hubbard referred to Appendix 8 of the information he had submitted to the Board in relation to a meeting that the Interim Chief Executive had held with the Head of Asset Management on 16 December 2015.

A member queried with regard to the arrangements that had been put in place for arranging alternative accommodation for the businesses currently located at the Southlands Centre and whether any negotiations had taken place.

The Community Regeneration Manager advised that the £100k that had been put aside was an estimate of what funding would be required. Every business presented unique challenges and some needed more intensive support and each would have to have a package suitable to their needs. The Executive Member for Finance and Governance advised that the Strategic Director for Finance, Governance and Support had delegated authority to increase the £100k funding if required without the need to refer his decision back to the Executive Sub Committee for Property.

The Chair of Overview and Scrutiny Board invited the parties to sum up.

The Executive Member for Finance and Governance summed up as follows:-

The Board was advised that the intention of the Council was to keep the Southlands Centre open. If a decision had been made to dispose of the centre, then a valuation would have been carried out and a disposal business case would have been prepared. The recommendation had been changed to ensure that the Council explored alternative viable uses for the Southlands Centre site, which were consistent with the Council's strategic priorities.

The Executive Member pointed out that if the rents at the centre had been increased, there was still no guarantee that the Southlands Centre would be viable. If the Council had accepted the bid from Bidder A then the site could have been sold on for housing. There were premises in Middlesbrough that offered accommodation to business start-ups. The Strategic Director for Finance, Governance and Support had advised that the Council had not reached the point of disposal.

The Executive Member stated that it was understandable that the businesses located in the Southlands Centre were concerned and it was hoped that they would be provided with more certainty. It was also understandable that members wanted to protect community premises in their Ward.

Councillor Hubbard and Councillor Rathmell made the following points in summing up:-

Councillor Rathmell advised that the role of the Overview and Scrutiny Board was to review the decision of the Executive Sub Committee for Property held on 22 March 2017. The Board had heard that there was no report relating to the disposal of the Southlands centre despite looking at business cases relating to freehold/leasehold or community asset transfer.

Councillor Rathmell urged the Board to exercise its powers and refer the matter back to the Executive Sub Committee for Property for review. The Corporate Affairs and Audit Committee stated that a step by step process should be followed in respect of asset disposals and it was imperative that the Council did not leave itself open to Judicial Review.

Councillor Rathmell queried at what point did the Executive Sub Committee for Property review the tender process. He advised that the process flaws that had been identified would lead to audit failings and officers had not necessarily followed the correct process or adhere to the Asset Disposal Policy agreed in December 2016.

The scoring matrix had been amended after the invitation for bids had been circulated and the revised matrix had not been approved. The Chief Executive had advised on the timeline for the process of disposal but the Executive Member for Finance and Governance had advised that there were no plans to dispose of the asset.

Councillor Rathmell advised that the bids were not assessed by a disposal business case and there was no detailed evidence that social value had been considered. Regeneration plans for the area had not been considered and the Council could not demonstrate value for money. Councillor Rathmell advised that there had been repeated failings during the period 2012 - 2014. The last valuation of the site had been carried out five years previously. The Council should have ensured that it was compliant with its own policies and procedures.

The Board was advised that the Asset Disposal Policy was approved in December 2016 and the Council was still failing to follow the policy. Councillor Rathmell urged members to recommend that the tender process was repeated.

Following closing submissions, the Board discussed the evidence received and voted on its decision.

ORDERED:

- a) That the decision taken by the Executive Sub-Committee for Property on 22 March 2017 in relation to the future of the Southlands Centre, be endorsed.
- b) That the decision be not referred back to the Executive.

The Chair of Overview and Scrutiny Board requested that officers discuss the issue of rent increases with the businesses currently operating out of the Southlands Centre.