

OVERVIEW AND SCRUTINY BOARD

A meeting of the Overview and Scrutiny Board was held on 16 September 2019.

PRESENT: Councillors D P Coupe, A Hellaoui, T Higgins, C McIntyre, J McTigue, J Platt, J Thompson, M Nugent(As Substitute), J Rostron(As Substitute) and J A Walker(As Substitute)

APOLOGIES FOR ABSENCE Councillor C Cooke, Councillor T Mawston, Councillor J Rathmell, Councillor M Saunders, Councillor M Storey, Councillor Z Uddin.

DECLARATIONS OF INTERESTS

There were no declarations of interest made at this point in the meeting.

19/87 CALL IN - LONG TERM LEASE OF GRESHAM SITE TO THIRTEEN GROUP

The Chair provided an outline of how the Call In would proceed; the Councillor proposing the Call In (Cllr Matthew Storey) would be afforded 15 minutes to do so and this would include any statements from witnesses. At the end of the 15 minute presentation the Executive Members for Regeneration and Finance and Governance respectively would have the opportunity to question the proposing Councillor for 5 minutes, this could include input from officers from the relevant service area.

The Executive Members/ service area would then have 15 minutes to provide the reasons for the decision after which the proposing Councillor would have the opportunity to question the Executive Members/ service area for 5 minutes.

The Overview and Scrutiny Board (OSB) would then be given the opportunity to ask the proposing Councillor and Executive Members/ service area questions. After this the proposer and the Executive Members would be given 5 minutes each to sum up.

OSB would then vote on whether or not the decision should be sent back to the Executive. The Chair confirmed that the subject of the Call In was the decision made by the Executive on the 27th August 2019.

The Chair invited Cllr Storey to provide the case to OSB. Cllr Storey made the following comments as part of the presentation:

- The intention of the Call In was not to undermine development in Gresham, its intention was to ensure proper processes were followed for the betterment of Middlesbrough citizens.
- The main areas of contention of the Call In were that there was a lack of proper consultation with key stakeholders, consequently there was no rigorous analysis undertaken of alternative options. Some consultation was a requirement of the Gresham Masterplan.

At this point the Call In witness was invited to speak in favour of the Call In and made the following points:

- The witness was present as a former Board member of MHome and as the former Executive Member for Economic Development and Infrastructure.
- MHome had a number of specific aims including providing direct Council intervention into areas that would have been unpalatable for private developers; retaining control of Council owned land and building a diverse range of homes for residents. MHome also looked at a mixture of tenures on the site, including homes for sale and for rent.
- There was a social good in this approach.
- 100 homes would have been covered in the first two years covering sites in Gresham, Hemlington and Beechwood.

- MHomes, as well as Council Officers, appointed and intended to use the skills of an expert Managing Director. This appointment was not taken lightly, as was suggested.
- There was a reliance on a business plan which emphasised that all the risk would have rested with the Council as well as all the benefits.
- Despite the Council being accused of being risk averse, the Council felt this was a positive risk that was worth taking.
- The Council owns a lot of land in Middlesbrough, an enviable position, and MHomes would have retained and controlled that land.
- The business plan also stressed that there would be approximately 100 homes constructed per annum across all sites, over a four to five year operating period.
- At that rate the development would have helped to revitalise those communities.
- MHomes would have introduced and maintained a responsible rate of growth and created sustainable communities. This would have also acted as a catalyst for further development.
- In terms of Gresham; this was not a site that was viable in pure market terms and because of this MHomes could have assisted.
- It was incorrect to suggest that Gresham was only deliverable via a partnership scheme. Had MHomes been consulted this could have been communicated to the Executive.
- It seemed that the decision not to progress with MHomes was a political choice and was the easier option.
- There was never an intention for MHomes to build houses in Gresham that were for sale, they would all be for rent.
- Had the proper consultation processes been followed the Executive would have been notified of this alternative solution and may not have made the decision they did.

Cllr Storey continued to make the following points:

- There had been no consultation with MHomes despite previous Executive decisions that identified Gresham and other sites to be developed.
- The Gresham Master Plan, under the heading "Risk" at para. 57 point B stated "The Council recently held a successful Developer Event to generate interest in a range of future housing site opportunities. A number of developers have subsequently expressed interest in several sites, including Gresham." Given this consultation should have taken place with those developers and MHomes.
- The Executive should have been able to demonstrate that Thirteen Group were the preferred developer alongside other options.
- The Gresham Masterplan also referenced the University's intention to develop a student village on part of the site however the decision by the Executive did not reference this.
- There was no reference to any consultation with the University despite the Gresham Masterplan stating that the student village would be the first phase of the development.
- There was also no evidence that consultation had taken place with the community despite this being a requirement in the Gresham Masterplan.
- There was a legal precedent of a Local Authority disposing of land without carrying out the required level of consultation, which was successfully challenged in court (Galaxy Housing Ltd Vs Durham County Council 2015).
- There was also deviation from the Gresham Masterplan especially in terms of open space which was specifically highlighted in the relevant plans. However this was not cited in the Executive decision and there was no explanation why this was not included.
- There was no explanation why there was an increase in the numbers of dwellings from 145, as cited in the Masterplan to 179 in the Executive decision.

At this point Cllr Rooney was invited to speak in support of the Call In and made the following points:

- The development was important and needed to be carried out correctly.

- There was reference made to contingencies for schools, services and community facilities in the Local Plan as agreed in 2014 but did not appear to have been relied upon.

At this point in the meeting the Chair invited the Executive Members to pose questions to the Call In proposers.

The Executive Member for Regeneration queried if Cllr Storey had read the Local Plan with regard to the number of houses that were to be developed, as the plan stated that 200 houses would be developed not 145. Cllr Storey confirmed that his understanding was for 145 homes. It was clarified that the number of homes to be developed was 200 and originally planned for 345.

The Executive Member for Regeneration confirmed that 179 homes would be built which fell under the 200 proposed in the Local Housing Plan.

Cllr Storey stated that the statistics cited were for the Middlehaven areas as a whole. Cllr Storey also stated that the main point about of the Call In was how the Council proceeded with the development. For example, while the number of houses could be larger than planned it was essential this was managed properly, and there was insufficient information in the report to suggest how this would be done.

The Executive Member for Finance and Governance queried if anything regarding the University's plans for the student village, contained within the 2018 Executive report, had been implemented. It was confirmed it had not.

Cllr Storey responded that at every stage of the plans so far the Student Village and the Housing development were planned to happen together. Therefore, the views of the University should have been sought.

The Executive Member for Regeneration queried if the Call In witness, when an Executive Member, announced that the Gresham site was available for redevelopment at the housing development conference held in April 2018. It was confirmed it was, along with other sites in Middlesbrough.

The Executive Member for Regeneration queried if any development proposals had come forward in that year. It was confirmed that MHomes had come forward.

At this point in the meeting the Chair invited the Executive Members to present the case for the Executive. The following comments were made during the presentation:

- There was no consultation with MHomes as the issue was brought up at a Board Meeting of MHomes on the 19 June 2019. It was discussed that the Gresham site was to be put on hold and would not be taken forward at that point.
- The site was vacant for a number of years with no prospect of developers coming to the site and building homes at a loss, something MHomes would have had to have done.
- Contrary to the Gresham Masterplan of 2016, Thirteen Group intended to build houses for affordable rent instead of being for sale.
- The Thirteen group development would not be high density housing and would include open space.
- As the Mayor was the majority share-holder in MHomes the decision was made that no consultation was required.
- There was no land sold to MHomes therefore no consultation was required on this basis.
- There were other sites where no formal consultation had taken place, such as the Ashdale and College Road sites that were sold to private developers.
- There was currently no discussion of seven story developments, and the new school planned in Middlehaven should take up a lot of educational demand in that area.

- All of this would be within acceptable tolerance of the plan agreed in 2014.
- Thirteen Group had access to the resources of approximately £40k per home bonus available from Homes England. This is something MHomes did not have access to and therefore could not have delivered on.
- The University was consulted with as Mayor had spoken to Professor Mark Simpson however no plans had been submitted by them.
- MHomes was consulted about putting the Gresham Plan on hold.

The Executive Member for Finance and Governance made the following comments:

- The development of the site had been a long time in the making, and the University seemed to be taking a passive role.
- The development as laid out in the Executive decision would be beneficial and act as a catalyst for other stakeholder to become more active.

At this point in the meeting the Chair invited Cllr Storey to pose questions to the Executive Members.

Cllr Storey asked why MHomes was not asked to provide a detailed business plan and then include it in the report as a comparator.

The Executive Member for Regeneration responded that the MHomes Board had been advised there would be no further progress on the Gresham site from its perspective.

Cllr Storey asked for clarity that discussion with the Board equated to Members of the Board being informed that its involvement with the Gresham Site would not be proceeding and why, as MHomes had expressed an interest in the site previously, they were not asked to provide a full and proper business case to act as a comparator.

It was commented that this was not required as a developer, namely Thirteen Group, was ready and willing to proceed. It was confirmed that the discussions carried out with MHomes were minuted.

Cllr Storey asked how many meetings had taken place with the University, the length of those meetings and if they had been recorded.

It was commented that formal consultation could not have taken place because no official plans had been submitted for consultation to have been carried out.

Cllr Storey asked the Executive Member for Finance and Governance if it was important that developments such as this should be carried out quickly or properly.

The Executive Member for Finance and Governance commented that the site had been awaiting development for too long and progress should be made as quickly as possible.

Cllr Storey asked the Executive Member for Regeneration that, based on his previous comment that consultation was not required with other operators, if this was an appropriate way to proceed.

The Executive Member for Regeneration commented that on the basis that where a developer could build homes to the standards laid out in the 2014 Local Plan, that the course of action taken was appropriate.

Cllr Storey asked if it would have been appropriate for the development of the planned secondary school to have been included in the report.

It was commented that no definite plans for the school had been proposed therefore mention of it was not included, and as the development was acting within the constraints of the Local Plan no consultation or discussion of the new school was required.

Cllr Storey asked if the decision had had regard of discussions within scrutiny about the need to consider infrastructural issues in developments such as this.

The Executive Member commented that it was extremely important to consider these issues.

At this point in the meeting the Chair invited OSB to ask questions of both Cllr Storey and the Executive Members.

A Member queried if the MHomes Board was comprised of exclusively Labour Councillors. It was confirmed that the current MHomes Board comprised both Labour and non-Labour members. However, before the local elections of May 2019 the Board consisted exclusively of Labour Members.

A Member queried if the choice of developer went out to procurement or if the choice of Thirteen Group was unilateral.

The Executive Member for Regeneration confirmed that the site was made available for development in April 2018 but there were no expressions of interest in the 12 months following this. Thirteen approached the Council with an offer to develop the site. Thirteen would be building homes at a loss without if were not able to access the £40k New Homes bonus from Homes England.

A Member queried where consultation with the University was evidenced in the Executive report.

It was confirmed that no plans had been submitted by the University, nor had the land been sold. Therefore, there was no need to consult over a blank piece of land. While there had been discussions between the Mayor and the University, these could not be classed as formal as there were no agreements in place.

A Member queried if there was a plan to build a student village.

It was confirmed that while plans were drawn up, the Gresham site was not available as the Compulsory Purchase Agreement Order to acquire the last remaining houses on the site had only recently been finalised. It was commented that the Student Village was not the subject of the Call In, however the University site did, nevertheless, had a significant reference to the housing site.

A Member queried, that while all parties were in agreement that some kind of development was required on the Gresham site, was it correct that if MHomes developed the site the Council would benefit from retention of the land, rent and Council Tax receipts.

The Executive Member for Regeneration confirmed that Thirteen Group would develop the entire site and that if MHomes were to have developed it they would have built homes at a loss, with the Beechwood and Hemlington developments covering such losses. The current lease stipulated that should Thirteen Group not develop the land it would be brought back under the Council's control.

Cllr Storey commented that a full business case should have been requested from MHomes so comparators could be made, and a full and proper discussion could have taken place.

A Member queried what plans were put forward for Gresham by the previous administration. It was confirmed there were many plans submitted in previous years but none had ever come to fruition. One of the reasons for this was that not all of the existing properties on the site had been acquired, with the Compulsory Purchase Order only being recently realised.

A Member queried what responsibilities the Council would have had with regard to funding the site via MHomes .

The Executive Member for Regeneration confirmed that had MHomes developed the site the

Council would have had to borrow against the houses to further the business plan in Beechwood and Hemlington.

A Member queried if MHomes would have been able to access to the New Homes bonus in the same way that Thirteen could.

The Executive Member for Regeneration confirmed that MHomes would have been able to but for 37 homes, not for 180 as Thirteen did.

It was also queried if information regarding this issue had been sought from MHomes, or if this had been assumed. It was clarified that MHomes had been notified that Gresham would be put on hold on the 19 June 2019 at its Board meeting.

A Member queried who the homes were intended for, and it was confirmed that it was intended to be social housing, which aligned with the Mayor's vision of increased urban living in the Town.

At this point in the meeting the Chair invited the Executive Members to sum up. The following points were made:

- MHomes had been described as a political entity
- The decision taken by the Executive would see the entire Gresham site being developed in line with the Local Plan and Gresham Master Plan.
- Consultation with the University was not required as no firm plans had been put into place.
- The Call In was being used to delay a fantastic initiative for the entire town.
- Building 50 homes a year was a reasonable development rate.

At this point in the meeting the Chair invited Cllr Storey to sum up. The following points were made:

- MHomes was created by the Council as a non-political entity and it was more about the Council being able to build properties for people in Middlesbrough and that the Council had the responsibility to build good quality housing for people in the Town.
- Residents of the Gresham area were not consulted as part of the decision and only vague statements about consultation between the University and the Mayor had been made.
- MHomes should have been asked to submit a full business case for the development to show that other developers had been considered, especially considering that they had expressed an interest in developing the site.
- Consultation should have taken place in an appropriate way, especially with key stakeholders, such as the University.
- Consultation should have taken place with potential developers
- If the concerns raised at the Call In were dealt with this would have provided the full facts behind the decision, making the decision more robust.
- The Call In proposers were keen to see Gresham developed but it had to be carried out in the correct and appropriate way.

At this point in the meeting the Chair invited OSB to vote on whether to send the decision back to the Executive.

ORDERED:

1. That the Executive decision of the 27 August 2019 regarding the Long-Term Lease of the Gresham site to Thirteen Group be referred back to the decision maker for further reconsideration.

2. That the Executive had regard for the following recommendations when reconsidering the decision:
 - That formal consultation should be undertaken and evidenced with both Teesside University and MHome.
 - That information contained within relevant policies such as the Gresham Master Plan and Local Housing Plan be used, and evidenced, in the decision.
 - That a tendering process for prospective developers be demonstrated.