

**OVERVIEW AND SCRUTINY BOARD**

A meeting of the Overview and Scrutiny Board was held on Monday 30 September 2024.

**PRESENT:** Councillors J Kabuye (Vice-Chair), J Banks, D Branson, E Clynch, D Coupe, J Ewan, L Henman (Substitute for I Blades), B Hubbard, L Lewis, I Morrish, M Saunders and G Wilson

**PRESENT BY INVITATION:** Councillors T Furness and T Livingstone

**ALSO IN ATTENDANCE:** Mr. W Tovey (Nunthorpe Parish Council)

**OFFICERS:** S Bonner, M Brown, C Cunningham, J Dixon, R Horniman and S Gilmore

**APOLOGIES FOR ABSENCE:** Councillors I Blades, M McClintock and M Smiles

24/25 **DECLARATIONS OF INTEREST**

Name of Member	Type of Interest	Nature of Interest
Councillor Ian Morrish	Non-Pecuniary	Submitted a Call In request for the same decision. Cllr Morrish stated he could approach the Call In with an open mind.

24/26 **CALL IN - DISPOSAL OF LAND AT NUNTHORPE GRANGE**

The Chair welcomed everyone to the meeting and stated the reason for the Overview and Scrutiny Board meeting was to consider a Call In submitted by Councillor Morgan McClintock. The decision being called in was made by the Executive Sub Committee for Property on 4 September 2024 relating to the disposal of land at Nunthorpe Grange.

The Chair provided an outline of how the Call In would proceed; the Councillor proposing the Call In (Cllr Tom Livingstone on behalf of Cllr Morgan McClintock) would be afforded 15 minutes to present to the Call In and this would include any statements from witnesses. At the end of the 15-minute presentation the Executive Member for Regeneration would have the opportunity to question the proposing Councillor for 5 minutes, this could include input from officers from the relevant service area, in this case the Director of Regeneration.

The Executive Member for Regeneration and the 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 Member for 5 minutes.

The Overview and Scrutiny Board (OSB) would then be given the opportunity to ask the proposing Councillor and Executive Member questions and to debate the matter.

After this the Call-In proposer and the Executive Member would be given 5 minutes each to sum up. OSB would then vote on whether the decision should be sent back to the Executive Sub-Committee for Property.

The Chair invited the Call-In proposer to provide the case to OSB. During the presentation the following points were made:

- The question posed to OSB was whether sufficient alternatives were offered to the Executive Sub Committee for Property on 4 September.
- The decision made at that meeting was the private treaty sale of land at Nunthorpe Grange to a housing developer.
- The three alternatives proposed as part of the decision were described.

- The first two options were dismissed by Executive immediately as not viable with the third classed as viable but not appropriate given the Council's financial position.
- As such, OSB needed to determine if the alternatives listed in the Executive report were the only ones available.
- The Call-In proposers did not think these were the only alternatives.
- Other example alternatives included the Council testing the market for a competitive process. The Council had received an offer higher than what the land was valued at, and the offer had been on the table for at least three months. As such there had been time to test the market to understand if other developers could offer the same, or higher level.
- By doing this there was the possibility other developers would approach the Council with similar offers and to accept the risks associated with the land.
- There was time to do this when the decision was made on the 4 September, however this was not mentioned during the Executive meeting.
- A potential argument for this option not being offered was the possibility of the buyer withdrawing. However, by having a competitive process there could have been more offers brought forward or the original bidder would have remained in the process.
- The point was not to discuss the merits of this proposal, instead it was to discuss why this, and other alternatives, were not discussed at the Executive Sub Committee for Property meeting.
- Another example of an alternative was to sell the land after the Masterplan had been refreshed. This would not have significantly delayed proceedings and could have been completed by the October sale deadline. The framework for the Masterplan was already in place but there seemed to be resistance to make progress.
- The local community was frustrated by the Council's lack of pace in this regard.
- The impact of the Masterplan on the local community needed to be considered. There were many people whose primary interest was if the development was suitable for the area.
- The concerns of the local community may have been mitigated had the Council refreshed the Masterplan.
- This alternative was not brought forward for Executive consideration.
- The alternative of testing the market would be generally undertaken by local authorities when selling land.
- If the alternative of refreshing the Masterplan was adopted it would have provided any developers a clear framework.
- The issue of value for money was relevant to the Executive, especially given the Council's financial position. The importance of value for money outweighed the need to sell the land quickly.
- The local community, including organisations such as the Parish Council and Nunthorpe Vision, had been working with the Council to try and bring forward the Masterplan for some time. It would have a detrimental impact on those relationships if work on the Masterplan was discarded.
- Overall, the Executive were not provided with sufficient alternatives when making the decision.

At this point a representative of Nunthorpe Parish Council addressed the Board and made the following points:

- They acted as the lead for the Nunthorpe Parish Council on the Nunthorpe Neighbourhood Plan.
- Nunthorpe Vision was hoped to improve communications between the Council and Nunthorpe communities.
- Nunthorpe had experienced other land sales which had not produced agreed objectives.
- The issue of Nunthorpe Grange had been discussed two years prior, however there had been little discussion about the Masterplan, save for a meeting in July.
- The Neighbourhood Plan that had been produced identified the land at Nunthorpe Grange as including a Care Home. There was an awareness the land would be sold as it was a capital asset. There was confusion, however, about the apparent avoidance of the Best Value tendering process.
- There was not a question of creating a new Masterplan, as one already existed. It was a question of refreshing the existing Masterplan and making sure it was in place before any development took place.

The Executive Member for Regeneration was offered the opportunity to ask questions of the Call-In proposer.

The Executive Member queried what the intention of the Call In was. It was clarified the Call-In was to examine if sufficient alternatives had been presented to Executive as part of the decision.

The Executive Member for Regeneration, accompanied by the Director of Regeneration, was invited to respond to the Call-In and made the following points:

- The Masterplan was not a requirement for the decision to be taken, despite it being best practice.
- There was an existing Masterplan in place for Nunthorpe which was being revised.
- The Masterplan would, however, be in place prior to any developers moving onto the site and would be completed by January 2025.
- The revision of the Masterplan would largely focus on changing layouts.
- The developer in question was aware of the Masterplan and that it was undergoing revisions.
- There was a financial pressure involved as there was potentially a long time between the offer being accepted for the land and the capital receipt being received. As such, going out to market sounded easy but was a very time-consuming process. Consequently, the option put forward was the most appropriate.

The Call-In Proposer was invited to pose questions to the Executive Member.

The Call-In Proposer queried if other offers had been received for the land. It was clarified that several approaches had been made and that an additional offer, to that cited in the Executive report, had been made. However, any offers entailed long processes before any sale could be finalised. To hold on to the land in the hope of finding a better offer would have carried risk and ongoing costs.

If the sale of the land was immediate the developer would be accepting the current Masterplan, so it was asked if the developer would build according to it. It was clarified the land was sold as seen and the developer was aware of the Masterplan. It was also clarified that future development would need planning approval which would define the development on the land.

The Chair then invited OSB to debate the issue and to ask questions of either the Call-In proposer or Executive Member.

A Member sought clarification that the developer would need to adhere to the revised Masterplan as part of the planning application process. The Executive Member clarified this was the case.

In terms of Best Value, it was queried if the Council had achieved this especially in terms of Nutrient Neutrality. It was clarified the cost would be unknown until a planning application was received, This would detail the types of housing and how they offset Nutrient Neutrality and would be the case irrespective of who bought the land.

A Member stated that, given the number of prospective units on the site at a cost of approximately £5,000 per unit, this could cost the Council approximately £800,000 regarding Nutrient Neutrality. The Member queried if the Council had calculated this cost as part of the decision. It was reaffirmed that irrespective of buyer, without a planning application there was no way to definitively know what the costs of Nutrient Neutrality and Bio-Diversity would be.

A Member queried if the land had been made available to buy previously. It was confirmed the land had been brought to developers' attention at several housing seminars. Following this the Council had received several unsolicited approaches. It was also queried if the land had been valued at that point, and it was confirmed this was the case.

The Executive Member also confirmed the land was sold for housing. A Member queried when other offers were received and if there was more than one additional offer to that cited in the Executive report. It was clarified there had been several approaches over the years with

those approaches advising the Council what they thought the land was worth rather than making a bid. However, an additional formal bid had been received after the Executive report had started its approval journey. That offer had been significantly less than the original bid.

A Member queried if the Council could have waited to see if higher bids were submitted. It was commented that while this was theoretically possible it would have taken a significant amount of time to achieve as other developers would need to spend time and money undertaking due diligence on the land. However, the bid that was part of the decision had already undertaken due diligence and was factored into that bid.

A Member queried if it was normal practice to go to open market for land sales. It was clarified this was normal practice, but it was also normal practice to receive unsolicited offers. While the standard practice was for the Council to prepare the land before moving to the open market, thereby removing risk, there were also occasions when developers were prepared to purchase land without this because there was an industry need. In the case of Nunthorpe Grange, the industry was aware of the opportunity the land presented and one developer decided to make an attractive offer.

It was queried if the sale of the land was driven by the Transformation agenda. It was commented the amount of money offered for the land was originally expected to have been gathered over a longer period, potentially eight years. However, the offer that was received meant the same amount could be received instantly and therefore the Executive Member was prepared to submit it to Executive.

In terms of best value assurance, it was asked how confident the Council was given the private treaty approach rather than open market. It was commented that, given the offers the Council had received the accepted bid was best value.

With reference to the Masterplan, a Member queried if it would have been preferential to revise to the Masterplan before the land was sold. The Executive Member stated the Masterplan was separate to the sale of the land and was not a material consideration of the decision.

At this point a Member commented they had heard sufficient information during the debate. They stated the Call In centred around sufficient alternatives within the Executive report and listed the options it listed. They also summarised the example alternatives proposed by the Call-In proposer. The Member stated that, while one of the proposed alternatives was to refresh the Masterplan before the sale of the land, this was not incumbent on the sale and was a Planning consideration. In terms of best value, the Council knew what the value of the land was and had effectively tested the market by making the industry aware of the land at housing seminars. Ultimately the sale of the land showed a housing developer had confidence in the town. Based on what had been discussed to that point in the meeting there was no need to refer the matter back to Executive.

A Member commented that given the offer received, the potential Council Tax income and additional cost savings was delaying the decision worth the risk of losing the current offer. The Call-In proposer reminded OSB the purpose of the Call-In was to consider if sufficient alternatives had been submitted as part of the decision. The Call-In proposer also commented that the matter of best value was not relevant to the Call-In meeting.

A discussion took place regarding access to the exempt information that formed part of the Executive decision. It was confirmed that only one other OSB Member had seen this information due to their submission of a different Call-In request on this decision.

A Member queried if the valuation of the land was correct. It was clarified the valuation had been undertaken properly and that other valuations had been undertaken over several years which had been broadly similar. As such the Council was confident the valuation was robust.

A Member commented that the issue of the Masterplan was subject to Planning approval and was confident that a refreshed Masterplan would be complied with. They also commented there was no evidence the deal had been underhand.

The Call-In proposer reminded OSB that the value of the deal was not relevant and that OSB should consider if sufficient alternatives were offered as part of the report.

The Executive Member commented the report would not have been submitted to the Sub-Committee had they not been confident it was the best deal for Middlesbrough.

Further discussion took place during which a Member commented the alternatives put forward by the Call-In proposer were not viable for the reasons previously discussed in the meeting and that the options in the Executive report were sufficient.

The Call-In proposer responded that the alternatives proposed during the the Call-In meeting may not have been viable but were not offered as part of the Executive decision.

The representative for Nunthorpe Parish Council stated the land in question could only be sold once, and the residents of Nunthorpe were keen to see a refreshed Masterplan before the land was sold.

The Chair invited the Executive Member for Regeneration to summarise their position.

The Executive Member stated there were sufficient alternatives as part of the Executive report and had addressed the matter of best value as part of the Call-In. The Masterplan was not a material factor in the decision and was, instead, a planning consideration. Any future planning application would need to adhere to the future Masterplan. The Executive Member, and all of Executive were confident the report and the decision were robust.

The Chair invited the Call In Proposer to summarise their position.

The Call-In proposer stated the decision before OSB was whether sufficient alternatives were offered as part of the Executive report. If OSB had any doubts the decision should be referred back to the Executive. There was no intention to scrap the deal, it was a matter of achieving value for money. In terms of the Masterplan, it had been stated it was best practice to refresh the Masterplan before the land was sold. Therefore, it was important to consider every alternative before a decision was made. Some residents had negative experiences with developers and it would be naïve to assume developers would adhere to a refreshed Masterplan.

**ORDERED** that the decision is not referred back to the Executive.

24/27

**ANY OTHER URGENT ITEMS WHICH, IN THE OPINION OF THE CHAIR, MAY BE CONSIDERED.**

None.