

MIDDLESBROUGH COUNCIL

AGENDA ITEM 3

OVERVIEW AND SCRUTINY BOARD

18 DECEMBER 2020

<p style="text-align: center;">CALL-IN – NUNTHORPE GRANGE FARM: DISPOSAL – CHURCH LANE</p>

PURPOSE OF THE REPORT

1. In accordance with Middlesbrough Council's Call-in Procedure, to allow Members of the Overview and Scrutiny Board the opportunity to consider a decision made by the Executive.

RECOMMENDATION

2. That the Overview and Scrutiny Board considers the decision of the Executive and determines whether it should be referred back to the decision making body for reconsideration.

EXECUTIVE DECISION

3. A meeting of the Executive was held on 24 November 2020. At that meeting, consideration was given to a report of the Executive Member for Finance and Governance, the Executive Member for Regeneration, the Director of Finance, and the Director of Regeneration and Culture in respect of Nunthorpe Grange Farm: Disposal – Church Lane. The report was presented in two parts: Part A and Part B (Part B being exempt).
4. A copy of Part A of the above report, which outlined the background to Nunthorpe Grange Farm: Disposal – Church Lane, is attached at **Appendix 1**. A copy of the minutes of the Executive meeting is attached at **Appendix 2**.
5. Part A of the report included the following recommendations:-
 - a) that the information contained in Part A of the report be noted; and
 - b) that the decision be taken once all the financial or exempt information contained in Part B of the report has been considered.

The decision was supported by the following analysis:

In order to meet the Council's requirements to generate capital receipts, increase annually recurring revenue streams and to bring the subject parcel of land into a far more beneficial use in the future.

The disposal of the subject parcel of land as proposed will generate a substantial capital receipt that the Council has allocated to fund/part-fund planned highways junction works on the adjacent Guisborough Road [A1043].

The disposal as proposed supports delivery of the Council's Medium Term Financial Plan.

6. The following was approved in respect of Part B of the report:-
1. That the recommendations of the report be approved.
 2. That a proportion of the capital receipt (i.e. £43,500) generated by the disposal of the land be allocated to Nunthorpe and Marton East wards, for community use.
 3. That a land-related covenant be applied, imposing restrictions on future use of the land.
 4. That, in respect of the disposal of Council assets, a report be submitted to a future meeting of the Executive to ensure that when a negotiated sum exceeded the asset value, a proportion of the capital receipt generated would be allocated to the relevant ward/s, for community use.

CALL-IN PROCEDURE

7. 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.
8. 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.
9. 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 and submitting a form that outlines the reason(s) for the call-in.
10. The completed call-in form, signed by five Members supporting the request to call-in the decision outlined above, was received and validated by the Monitoring Officer.

11. The five Members supporting the call-in were Councillors Rathmell (Proposer), Hill, Hubbard, Polano and Wilson.
12. The decision to be called-in is as follows:

Part A

1. That the information contained in Part A of the report be noted; and
2. That the decision be taken once all the financial or exempt information contained in Part B of the report has been considered.

The decision taken after consideration of Part B of the report (exempt content) was to dispose of the land (Nunthorpe Grange Farm).

13. The reasons for the call-in, as determined as being valid by the Council's Monitoring Officer, are as follows:

"Members were provided with insufficient information to take the decision as some of the information provided was misleading and disingenuous e.g. Members were not told that this falls outside the Local Development Plan Policy Document. The site was not on the Council's disposal asset register, which lists sites that the Council intends to dispose of. Therefore this decision falls outside the Council's Policy Framework.

The site did not go out to tender and no other options were considered for the retention and / or disposal of this land. Therefore Members cannot be assured that this disposal represents value for money.

No / inadequate consultation was undertaken. The report states at paragraph 23 "The property is situated in the Nunthorpe Ward and the respective Ward Members have been consulted". This is untrue. The Ward Members were informed, confidentially, that this decision was being taken, this was not consultation. There has been no consultation in the Ward.

The report regarding this decision was taken in two parts; the information in part two being confidential. Despite the Council deciding that the information in part two should be confidential, following the meeting information from this part of the meeting was released to the press. This suggests that more information could have been placed in the public domain but was withheld by officers potentially in breach of the release of information protocols and legislation."

14. To assist the Overview and Scrutiny Board in the call-in process, the Mayor, Executive Member for Finance and Governance, the Executive Member for Regeneration and appropriate Council officers, will be present at the meeting. The Executive Members and officers will explain the reasons and rationale behind the report and the decision that was made. The Member who initiated the call-in will also be present to explain their views and concerns in respect of the decision.
15. A copy of the procedure to be followed at the meeting is attached at **Appendix 3**.

16. Having considered the submitted information, the Overview and Scrutiny Board has the following courses of action available:
- i. To refer the decision back to the Executive for reconsideration. In that case, the Overview and Scrutiny Board 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 decision that was taken by the Executive. In that event, no further action would be necessary and the Executive decision could be implemented immediately.
 - iii. Request that the decision be deferred (adjourned) until the Overview and Scrutiny Board has received and considered any additional information/evidence required to make a decision with regard to the call-in from other witnesses not present at the Committee (the Committee needs to clearly identify the relevant issues that need to be given further consideration, and whether there are any specific time constraints or other implications affecting the proposed implementation of the decision).
 - iv. Take no action in relation to the called-in decision, but consider whether issues arising from the call-in need to be added to the Work Programme of any existing or new Overview and Scrutiny Standing Panel/OSB (the Committee needs to clearly identify the issues to be added to the Work Programme).
 - v. If, but only if (having taken the advice of the Monitoring Officer and/or the Chief Finance Officer), the Committee determines that the decision is wholly or partly outside the Budget and Policy Framework, refer the matter, with any recommendations, to the Council after following the procedure in Rule 8 of the Budget and Policy Framework Procedure Rules. Only in this case is there a continuing bar on implementing the decision.
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 the Overview and Scrutiny Board.
18. Where the recommendations of the Overview and Scrutiny Board are not accepted in full by the relevant Executive body, the body should notify the Overview and Scrutiny Board of this and give reasons for not accepting the recommendations.

BACKGROUND PAPERS

19. The following background papers were used in the preparation of this report:
- Middlesbrough Council's Call-in Procedure; and
 - Report to Executive – 24 November 2020.

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