

MIDDLESBROUGH COUNCIL

Report of:	The Monitoring Officer
Relevant Executive Member:	Executive Member for Regeneration
Submitted to:	Overview and Scrutiny Board
Date:	30 September 2024
Title:	Call In - The Disposal of Land at Nunthorpe Grange
Report for:	Decision
Status:	Public
Council Plan priority:	Delivering Best Value
Key decision:	Not applicable
Why:	Not applicable
Subject to call in?:	Not applicable
Why:	Not applicable

Proposed decision(s)

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

Executive summary

A meeting of the Executive Sub Committee for Property was held on 4 September 2024. At that meeting, consideration was given to a report of the Executive Member for Regeneration in respect of the land disposal at Nunthorpe Grange.

That decision has been subject to Call In by the requisite number of Councillors and is submitted to OSB in accordance with the Council's Call In procedures.

1. Purpose

1.1 In accordance with Middlesbrough Council's call in Procedure, to allow Members of the Overview and Scrutiny Board (OSB) the opportunity to consider a decision made by the Executive.

2. Recommendations

2.1 That the Overview and Scrutiny Board considers the decision of the Executive Sub Committee for Property and determines whether it should be referred back to the decision-making body for reconsideration.

3. Rationale for the recommended decision(s)

3.1 OSB is required to consider valid Call In applications in accordance with legal and constitutional requirements.

4. Background and relevant information

EXECUTIVE DECISION

4.1 A meeting of the Executive Sub Committee for Property was held on 4 September 2024. At that meeting, consideration was given to a report of the Executive Member for Regeneration in respect of the Land Disposal at Nunthorpe Grange.

4.2 A copy of the above report, which outlined the background to the decision, is attached at **Appendix 1**. The report was also accompanied by an Exempt Appendix (4) which contained financial information relating to the proposed bid and the name of the successful bidder. However, as the information remains private and exempt, it is not part of the public report and will not be considered or referred to as part of the OSB process. As such that Appendix is not included as part of this report

4.3 The report included the following recommendations:-

- a) the private treaty sale of land at Nunthorpe Grange to Housing Developer (Ref A – Exempt Appendix 4) for the development of housing for the sum of (Ref B – Exempt Appendix 4); and,
- b) the private treaty sale of land at Nunthorpe Grange to Care Home Provider (Ref C – Exempt Appendix 4) for the development of an elderly persons care home for the sum of (Ref D – Exempt Appendix 4).

4.4 The decision was supported by the following analysis:

Disposal of land at Nunthorpe Grange meets the established objectives of Policy H29 of the Housing Local Plan, which allocates land at Nunthorpe Grange Farm for the development of high quality, mixed, medium to higher density housing. The development will make a significant contribution to the prescribed national housing targets for Middlesbrough. In addition, securing

a significant capital receipt in the 2024/25 financial year would assist in achieving the required level of receipts to support the delivery of the main capital programme and the Council's Transformation portfolio.

Executive considered a report on the 23rd December 2023 and approved the marketing and disposal of a 14.03ha site at Nunthorpe Grange for the development of new homes.

The subject parcel of land identified for disposal formed part of a much larger, now defunct, agricultural landholding situated at Nunthorpe Grange Farm – close to both Poole Roundabout on the junction of Guisborough Road [A1043] with Stokesley Road, and the site of the newly constructed Nunthorpe Medical Centre building.

Policy H29 of the Housing Local Plan allocates land at Nunthorpe Grange Farm for the development of high quality, mixed, medium to higher density housing'. In addition to the subject site held by the Council at Guisborough Road, the LPF housing allocation includes two parcels of privately owned land, together with a further parcel of land held by the Council earmarked for mixed community purposes.

The parcel of land was farmed for a number of years under an agricultural tenancy, prior to the Council acquiring the subject lease in April 2018. Letting of the land continued via a Farm Business Tenancy in the interim, thus affording the Council opportunity to continue drawing revenue income from the asset until the formal decision was made by the Council to bring the same forward for disposal.

The Asset Disposal Business Case (ADBC) that was appended to the December 23 report stated that the site was valued at (Ref E – Exempt Appendix 4) pending agreement of any allowable scheme development, infrastructure & abnormal cost deductions identified following the completion of relevant site planning, engineering, diligence & investigations.

The report set out the next steps that would be undertaken to “de-risk” the site prior to marketing in order to maximise the potential capital receipt, which included:

- a) updating the adopted Masterplan and Design Code;
- b) undertaking due diligence; and,
- c) securing an outline planning consent.

Since the original Design Code was adopted in 2018, a GP Surgery has been developed on the site, and in July 2023 Executive approved the disposal of a parcel of land for the development of a place of religious worship. The updated Design Code will therefore reflect the development that has been undertaken to date and that proposed for the future. A consultant has been appointed to undertake the review.

CALL IN PROCEDURE

- 4.5 The power to call in a decision of a local authority executive body was introduced under the Local Government Act 2000 (as amended). 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.
- 4.6 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.
- 4.7 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.
- 4.8 A Call In form, signed by five Members supporting the request, was received by Democratic Services on 11 September 2024. A copy of the Submitted Call In form can be found at **Appendix 2**. A copy of the Call In Protocol can be found at **Appendix 3**.
- 4.9 The five Members supporting Cllr McClintock's Call In are:
- M McClintock (Proposer),
 - T Grainge
 - T Livingston,
 - M Smiles
 - J Young.
- 4.10 The decision to be called in is as follows:
- a) the private treaty sale of land at Nunthorpe Grange to Housing Developer for the development of housing.
 - b) the private treaty sale of land at Nunthorpe Grange to Care Home Provider for the development of an elderly persons care home.
- 4.11 The reasons for the call in, as determined as being valid by the Council's Monitoring Officer, are detailed in **Appendix 4** but are summarised as follows:

In respect of ground 5.2(ii), "(That there was inadequate/inaccurate evidence on which to base a decision and that not all relevant matters were fully taken into account)";

While the majority of issues were not considered to have been made out, the Monitoring Officer accepts at paragraph 13.5 that more detail could have been provided in respect of alternative options open to the Council. Particularly the call-in concerns regarding the perceived negative impact of completing of the sale of land prior to the refresh of the masterplan which may require further explanation and exploration by the Overview and Scrutiny Board.

Accordingly, the Monitoring Officer considers that this element of the call-in request only is valid and should be considered by the Overview and Scrutiny Board.

Therefore, the Call-In is partially accepted and the Overview and Scrutiny Board are invited to consider the decision, and particularly: whether sufficient alternatives were provided to the decision makers in relation to the proposed unconditional sale of land by private treaty to a developer.

- 4.12 To assist the Overview and Scrutiny Board in the Call In process 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 Executive report and the decision that was made. The Member (or their substitute) who initiated the Call In will also be present to explain their views and concerns in respect of the decision.
- 4.13 A copy of the procedure to be followed at the meeting is attached at **Appendix 5**.
- 4.14 Having considered the submitted information, the Overview and Scrutiny Board has the following courses of action available:
- To refer the decision back to the Executive/Executive Sub-Committee/Executive Member/Officer for reconsideration. In that case, OSB should set out in writing the nature of its concerns about the decisions.
 - To determine that it is satisfied with the decision-making process that was followed and the decision that was taken by the Executive/Executive Sub-Committee/Executive Member/Officer. In that event, no further action would be necessary, and the Executive decision could be implemented immediately.
 - 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 need 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.)
 - 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 need to clearly identify the issues to be added to the Work Programme.)

- If, but only if (having taking 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.

4.15 In the event the decision is referred back to the Executive Sub Committee for Property, a further meeting of the Executive would be arranged within ten further working days. The Sub Committee would then make a final decision in the light of any recommendations made by OSB.

4.16 Where the recommendations of 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.

5. Other potential alternative(s) and why these have not been recommended

5.1 No other options are put forward as part of the report.

6. Impact(s) of the recommended decision(s)

Not Applicable

6.1 *Financial (including procurement and Social Value)*

7. Not Applicable

7.1 *Legal*

Not Applicable

7.2 *Risk*

Not Applicable

7.3 *Human Rights, Public Sector Equality Duty and Community Cohesion*

Not Applicable

7.4 *Climate Change / Environmental*

Not Applicable

7.5 *Children and Young People Cared for by the Authority and Care Leavers*

Not Applicable

7.6 *Data Protection*

Not Applicable

Actions to be taken to implement the recommended decision(s)

Action	Responsible Officer	Deadline
If OSB decide to refer the matter back to the Executive; a meeting of Executive will be convened within 10 working days of OSB's referral.	Scott Bonner	10 October 2024

Appendices

1	Executive Report – Disposal of Land at Nunthorpe Grange
2	Submitted Call In Form
3	Call In Protocol
4	Deputy Monitoring Officer's Decision
5	Call In Procedure

Background papers

Body	Report title	Date

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