

MIDDLESBROUGH COUNCIL
OVERVIEW AND SCRUTINY BOARD

27 JANUARY 2021

<p>CALL-IN – NUNTHORPE GRANGE FARM: DISPOSAL – CHURCH LANE (CONTINUATION OF CALL-IN MEETING 18 DECEMBER 2020)</p>
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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. The Executive decision was as follows:-
 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.

OVERVIEW AND SCRUTINY BOARD MEETING – 18 DECEMBER 2020

5. On 18 December 2020, the Overview and Scrutiny Board met to consider the Call-In received in respect of the above. The meeting was adjourned for further legal advice to be sought, and a copy of the minutes of the meeting are included in the agenda pack (agenda item 3). In summary, the main submissions in respect of the Call-In, as highlighted by the proposer, were as follows:-
 - 1) The decision fell outside of the Council's Budget and Policy framework;
 - 2) There was a lack of consultation; and
 - 3) The adequacy of information was insufficient for an informed decision to be taken.
6. During the closing submission, the proposer made reference to the fact that if a decision falls outside of the Budget and Policy framework the Board can refer the matter to Full Council for consideration. The Chair sought advice from the Monitoring Officer, as required in such cases.
7. At that point, the Monitoring Officer highlighted a conflict between the options presented in the scrutiny Call-In procedure, and the advice provided in the relevant section of the Constitution (Budget and Policy Procedure Rules pertaining to the Call-In of decisions falling outside of the Budget and Policy Framework). A formal request for an adjournment to clarify the legal position was made. With the agreement of the Chair, the meeting was adjourned.
8. The Monitoring Officer and Section 151 Officer have since provided the advice requested in line with the requirements of the Constitution. A copy of that advice has been sent to all Members of the Council and a copy is also attached at **Appendix 1**.

TODAY'S MEETING

9. The Monitoring Officer and Section 151 Officer will be in attendance at today's meeting to present their advice.
10. As highlighted above, three main issues were raised as part of the Call-In submission. **The Board is now asked to consider and vote on each issue, in turn, to determine the outcome of the Call-In, as follows:-**
 - 1) **Does the Board accept, on the basis of the legal advice received, that the Executive decision subject to Call-In falls within the Budget and Policy Framework?**

If the Board accepts the legal advice the Executive decision cannot be referred back to Full Council. If the Board does not accept the legal advice and wishes to refer the decision back to Full Council, the Monitoring Officer would provide further legal advice to Council.

- 2) **Does the Board accept that there was a lack of consultation?**

If the Board determines that there is sufficient evidence of a lack of consultation with stakeholders, the decision would be referred back to the Executive for reconsideration.

3) Does the Board accept that the information provided to the Executive was inadequate?

If the Board determines that there is sufficient evidence of inadequate information for the Executive to have made an informed decision, the matter would be referred back to the Executive for reconsideration.

11. Dependent upon the outcome of the votes in respect of lack of consultation and inadequacy of information, the decision could be referred back to the Executive on either or both grounds.
12. If Members are of the view that there is insufficient evidence to support the Call-In request, the Board has a number of courses of action available:-
 - i) 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.
 - ii) 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 Scrutiny Panel/OSB (the Board needs to clearly identify the issues to be added to the Work Programme).
13. If the Board vote in favour of referring the decision back to the Executive the Board is required to set out the reasons for this. A further meeting of the Executive would be then be arranged within ten working days. The Executive would then make a final decision in the light of any recommendations made by the Overview and Scrutiny Board.
14. 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

15. The following background papers were used in the preparation of this report:
 - Middlesbrough Council's Call-In Procedure;
 - Report to Executive – 24 November 2020; and
 - Report to Overview and Scrutiny Board – 18 December 2020.

Contact Officer:

Chris Lunn - Democratic Services Officer
Email - chris_lunn@middlesbrough.gov.uk