OVERVIEW AND SCRUTINY BOARD

A meeting of the Overview and Scrutiny Board was held on Friday 29 January 2021.

PRESENT: Councillors J Thompson (Chair), M Storey (Vice-Chair), C Cooke, D Coupe, A Hellaoui, T Higgins, S Hill, B Hubbard (Substitute for M Saunders), T Mawston, J McTigue and J Platt.

PRESENT BY INVITATION: Councillors C Hobson, J Rathmell, A Waters, G Wilson and M Smiles; A Preston (The Mayor).

OFFICERS: C Benjamin, C Breheny, R Horniman, C Lunn, G Moore, T Parkinson, S Reynolds and I Wright.

APOLOGIES FOR ABSENCE: Councillors L Garvey, C McIntyre, M Saunders and Z Uddin.

20/73 **DECLARATIONS OF INTEREST**

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

20/74 **MINUTES - OVERVIEW AND SCRUTINY BOARD - 18 DECEMBER 2020**

The minutes of the Overview and Scrutiny Board meeting held on 18 December 2020 were submitted and approved as a correct record.

20/75 **CALL-IN - NUNTHORPE GRANGE FARM: DISPOSAL - CHURCH LANE**

The Chair explained that the purpose of the meeting was for the Board to consider the outcome of the Call-in in respect of Nunthorpe Grange Farm: Disposal – Church Lane.

The matter had initially been considered by the Board on 18 December 2020; however, that meeting had been adjourned in order for further legal advice to be provided.

The Council's Monitoring Officer had provided advice and a copy had been circulated to all Members. The Monitoring Officer was in attendance at the meeting to provide that advice to the Board, and the Director of Finance was also present to respond to any queries.

It was highlighted that the purpose of the meeting was not to revisit the information presented on 18 December 2020, but to make a decision based on the evidence already received.

The Monitoring Officer reiterated some of the main points of the legal advice that had been provided to Members. It was explained that, having been asked to advise whether the Executive decision departed from the Budget and Policy Framework, the response to this point was that it did not. The submitted report set out the reasoning for this. In summary, the Board heard that:

- The Executive decision was about whether the Council should sell the asset in question. The Executive was not concerned with determining how the land should be used or developed, as that was a matter for the Planning and Development Committee.
- The Council's Asset Disposal Policy was relevant to the Executive decision to dispose of the land, and that policy had been followed in this instance.
- In terms of the (valid) points raised in support of the argument that the decision was outside of the Budget and Policy Framework, these related to the Local Plan and the Mayor's Vision and were not directly relevant to the decision made by the Executive. Instead, they related to the business of the Planning and Development Committee. These issues may need to be considered by the Planning and Development Committee when in receipt of a planning application by the purchaser.
- In essence, the Executive was concerned with the decision whether to dispose of the land at Nunthorpe Grange Farm. In taking the decision, the Executive did not depart from the Budget and Policy Framework.

The Proposer of the Call-in, Councillor Rathmell, made the following points:

- It was felt that, despite being a valid Policy Framework document, the Local Development Plan was being dismissed. Reference was made to the role of the Planning and Development Committee; the replacement of this document in the Budget and Policy Framework with national legislation; designation of this land within the Local Plan as agricultural land, forestry or fishery, versus the proposed use of this land for religious purposes; and the potential implications for the Planning department, the Council and the local area following departure from the Local Policy Framework and the Local Plan.
- The legal advice provided relied on the Council's planning process, which ensured that a departure from the Local Plan did not happen. However, it was felt that departure from the Local Plan had occurred in this case because the Executive decision had approved sale for an alternative use within the Local Plan, which gave the Planning and Development Committee no authority, precedence or sway.
- There had been no advice provided in respect of the Mayor's Vision, which it was felt the decision had also departed from.
- This matter departed from the Budget and Policy Framework, and the decision taken by the Executive should therefore be referred back to Full Council for consideration. Reference was made to use of the site for religious purposes; the Council's Policy Framework and Policy documents; the potential impact upon residents in departing from the Budget and Policy Framework; and the complexities around planning and benefit of sourcing associated specialist advice.

A Member commented that the purpose of the meeting was to complete business that had been adjourned on 18 December 2020, and to make a decision based on the information already provided to the Board. It was felt that the report provided by the Monitoring Officer detailed a response to the arguments raised at that meeting; any new information or arguments were not materially relevant to the decision that Members needed to take at this point. The decision required of Members at this moment in time was based on the discussions Members had had in the first meeting, and based on the Monitoring Officer's paper. Essentially, did the Board disagree with the Monitoring Officer's advice and therefore feel the decision ought to be referred back to Full Council, or did the Board agree with the Monitoring Officer's determination, as presented. It was highlighted that, once this aspect of the Call-in had been considered, further discussion was still required as to whether or not this decision should be referred back to the Executive.

The Democratic Services Officer explained that following on from the Monitoring Officer's advice, the Board needed to take a vote in order to determine whether or not it accepted this advice (i.e. did the Board agree that the decision fell outside of the Budget and Policy Framework, or not). If the Board did agree that the decision fell outside of the Budget and Policy Framework, then the matter would be referred back to Full Council. It was highlighted that, irrespective of the outcome on this point, the vote would only deal with the first part of the Call-in. The decision could still be referred back to Executive should the Board feel it appropriate to do so.

Members were advised that once the first vote had been held, the Board would then be required to hold a further two votes to consider the remaining grounds i.e. lack of consultation and inadequacy of information, which were both raised at the initial meeting on 18 December 2020. Each vote would be to determine whether the Board felt there was sufficient evidence to refer the matter back to the Executive on that particular ground, or not. The Board also needed to be clear on its reasons for a referral back to the Executive, if applicable.

It was indicated that, if the Board determined there was insufficient evidence for a referral and it was satisfied with the decision-making process followed and the decision taken, no further action would be necessary. The decision could then be implemented immediately. Alternatively, the Board could opt to take no further action, but consider whether issues arising from the Call-in needed to be added to the Scrutiny Work Programme.

Following a voting process, the Board agreed that:

1. The decision taken by the Executive did not fall outside of the Budget and Policy Framework, therefore accepting the legal advice provided by the Monitoring Officer. The matter would not be referred to Full Council.

2. There was sufficient evidence of a lack of consultation; the decision would therefore be referred back to the Executive for reconsideration.
3. There was sufficient evidence that the information provided to the Executive was inadequate; the decision would therefore be referred back to the Executive for reconsideration.

In preparation for the Executive meeting, it was explained to Members that a report detailing the Board's reasons/recommendations for the referral would be produced. Following discussion, it was determined that the following would be incorporated:

1. That alternative uses for the site be explored, such as community uses, that would be of benefit to a greater number of residents within the area by not restricting use for/to a particular purpose/group.
2. That further consideration be given as to whether best value for money has been achieved, or whether enhanced consultation and an open tender exercise could generate additional interest/alternative proposals.

The Chair thanked all in attendance for their contributions.

AGREED that:

1. The decision taken by the Executive did not fall outside of the Budget and Policy Framework, and therefore the matter would not be referred to Full Council; and
2. In respect of the decision taken by the Executive, there was sufficient evidence for lack of consultation and inadequacy of information. The matter would be referred back to the Executive for reconsideration, with the following reasons/recommendations:

    1. That alternative uses for the site be explored, such as community uses, that would be of benefit to a greater number of residents within the area by not restricting use for/to a particular purpose/group.
    2. That further consideration be given as to whether best value for money has been achieved, or whether enhanced consultation and an open tender exercise could generate additional interest/alternative proposals.