

RESOURCES SCRUTINY COMMITTEE

At a meeting held on Tuesday, 29th September, 2015

Present:-

Councillor Mrs S Turner (Chairman) in the Chair;
Councillors A Abbott, N K Murphy, Mrs H Phillips, Mr T Randerson, M Smith,
G Dennett, Mrs H Lynskey, J Warburton, M T Vesey (as a substitute for Mrs D V
Cluer) and D L Billing (as a substitute for J Ritchie)

1. DECLARATIONS OF INTEREST

With reference to Agenda Item 6 (CALL-IN OF A CABINET DECISION: LAND AT DANE'S DYKE, NEWBY), the Committee noted that Councillors D Billing, H Lynskey and M Smith were members of the Planning and Development Committee and in this capacity had considered and voted on planning application reference 14/02380/RG4 on 12 March 2015. This planning application was in respect of a Supported Housing Scheme for victims of domestic violence on the land at Dane's Dyke, Newby which was the subject of the call-in. The Director, Ms L Dixon advised that because the planning matters were not material to the call-in, those members would not be required to declare an interest.

2. MINUTES

RESOLVED: that the minutes of the meeting held on 21 July 2015 be approved as a correct record and signed by the Chairman.

3. PUBLIC QUESTION TIME

Ms Val Stringer of the Filey Mothers' Union had given notice that she wished to make representations to the Committee in respect of Agenda Item 6 (CALL-IN OF A CABINET DECISION: LAND AT DANE'S DYKE, NEWBY). Ms Stringer confirmed that she was agreeable to making her representations during consideration of Agenda Item 6.

4. WORK PROGRAMME

The Committee considered its work programme for 2015/16. In response to a question, the Director Ms L Dixon confirmed that Members could raise new items for the work programme at any time.

RESOLVED: that the Resources Scrutiny Committee Work Programme for 2015/16 be noted.

5. EXCLUSION OF THE PUBLIC

The Committee considered whether to exclude the public from the meeting for Agenda Items 6 (CALL-IN OF A CABINET DECISION: LAND AT DANE'S DYKE, NEWBY) and 7 (CALL-IN OF AN INDIVIDUAL CABINET MEMBER'S DECISION: EASTFIELD PUBLIC HOUSE) on the grounds that the information contained in the reports was sensitive and/or confidential.

It was agreed that the public would remain in the meeting during consideration of Agenda Item 6, unless any exempt information was discussed, and would leave the meeting during consideration of Agenda Item 7 in accordance with Section 100A(4) of the Local Government Act 1972.

RESOLVED: that

- (i) the public would remain in the meeting for the duration of Agenda Item 6 (CALL-IN OF A CABINET DECISION: LAND AT DANE'S DYKE), except for any instances when exempt information was discussed as defined below, in which case the public would be required to leave the meeting; and**
- (ii) the public would be asked to leave the meeting for the duration of Agenda Item 7 (CALL-IN OF AN INDIVIDUAL CABINET MEMBER'S DECISION: EASTFIELD PUBLIC HOUSE), on the grounds that all of the documentation contained exempt information as defined below, and that this was likely to take up the majority of the debate:**

In accordance with Section 100A(4) of the Local Government Act 1972 (and subject to consideration of the public interest under paragraph 10 of Part 2 of Schedule 12A of the Act), any information which is considered to be exempt information (as defined by Part 1 of Schedule 12 A of the Act), namely information:

- (a) relating to any individual; and/or**
- (b) relating to the financial or business affairs of any particular person (including the authority holding that information)**

6. CALL-IN OF A CABINET DECISION: LAND AT DANE'S DYKE, NEWBY

[Note: Councillor M Cockerill was in attendance as portfolio holder for assets and a representative of Cabinet to answer any questions. He remained in the meeting during the debate, but left the meeting while the Committee made its decision in accordance with good practice.]

The Committee considered a call-in of a Cabinet decision taken on 14 July 2015, to approve Option iii of the Cabinet report (ref. 15/193): the marketing and subsequent tender of Council-owned land at Danes Dyke, Newby, Scarborough, to be sold for its highest and best value subject to planning

permission. The reason given for the decision was to obtain clarity on the future use of the land. Members noted the relevant history of the site, and in particular the following:

- In 2009, Cabinet had identified the land in question as being a potential site for affordable housing.
- In 2012, Cabinet had instructed officers to work with a registered social landlord on development proposals for the land, and the Council began considering options for the site with various registered providers.
- In 2014, Cabinet had approved in principle the release of the land to a registered service provider for the development of a supported housing scheme for victims of domestic violence, for a reduced capital receipt of £50,000. Subsequently, Home Group had been chosen as the development partner.
- On 12 March 2015, the Council's Planning and Development Committee had granted planning permission to Home Group, for 10 no. self-contained units of accommodation and support services for women and children (planning application ref. 14/02380/RG4).

The Director, Ms L Dixon, reminded members that the Planning and Development aspects of the land could not be considered by the Scrutiny Committee because they were governed by a separate process.

The Committee acknowledged the following correspondence that had been received and circulated to its members prior to the meeting: a letter from Home Group dated 16 September 2015; a letter of representation from Newby and Scalby Parish Council dated 17 September 2015; and a letter of representation from Mr N Willson dated 25 September 2015. With reference to the letter from Home Group, Ms Dixon reported that it gave details of an increased financial offer for the land, and that this figure was currently private and confidential due to it being potentially commercially sensitive information.

Ms Val Stringer of Filey Mothers' Union spoke in favour of the call-in, in accordance with the Council's policy on public representation at committee meetings. She said that Cabinet's decision to sell the land for best market value would effectively reverse the Council's earlier decisions to earmark the land for a project to support victims of domestic violence, and she felt that this was "morally wrong". She believed that it could also result in the Council incurring significantly greater costs through pursuing an alternative site.

Councillor D Billing presented his case as the originator of the call-in as follows:

He said that there was a proven need for a refuge in the Borough which had been backed by Cabinet as recently as 2014, and felt that a decision not to provide one at Danes Dyke on land which already had planning permission, would be short-sighted. The siting of a women's refuge in the Borough was included in the Council's current housing policy, and the only approved planning use of the land was for refuge accommodation. This

meant that any other proposed use of the land would need to be subject to planning permission.

In financial terms, the market value of the land had decreased since Cabinet's decision to sell it, due to a successful appeal against the November Ministerial Statement's move to increase the threshold for the requirement to provide affordable housing. He said that this would fundamentally affect Cabinet's decision of 14 July 2015. In addition, the Council would be required to provide an additional financial sum in the region of £300,000 for a commuted affordable housing payment, should the Council seek to provide an alternative refuge site to Danes Dyke. He felt that the likelihood of purchasing an alternative site for a refuge was negligible. He questioned whether Cabinet's decision truly represented best value under these circumstances.

Councillor Billing added that the call-in had been signed by Councillors of differing political groups, and could not therefore be regarded as having politically based motivations. He asked the Committee to request that Cabinet re-consider its decision in light of the recent changes in circumstances surrounding the land, and the Council's policy commitment through its housing strategy.

Councillor T Fox, Mayor of the Borough of Scarborough, was present at the meeting and had requested to speak. He made the following points in support of the call-in:

He said that supporting the provision of a refuge at Danes Dyke was in – keeping with “Breaking the Cycle”, the Mayor's theme for 2015 which supported the prevention of crime and of repeat-offending. He expressed concern that there was a risk of overlooking victims of domestic violence if the scheme did not go ahead. Noting the site history for the land at Danes Dyke, he read an extract from the Council's adopted housing strategy for 2013-16, which referred to the provision of a dedicated refuge by 2015.

He emphasised that prior to Cabinet's July 2015 decision, Cabinet and Council had at no time supported the sale of the land at market value. He understood that Cabinet's recent decision had arisen from the Council's current financial challenges; however, this decision had been based on selling the land without an affordable housing element. The recent legal challenge of the Ministerial Statement by two local authorities now meant that affordable housing was once again required, and the value of the land was now nearer its 2014 value.

He reported that Home Group and the Council had considered alternative sites and existing buildings for possible conversion, and only the land Danes Dyke had fully met the necessary criteria. He reminded members that there was a time limit on the Homes and Communities Agency Grant funding which had already been allocated to the project. He was of the opinion that the refuge scheme was the best value option.

Councillor M Cockerill, portfolio holder for harbours, assets, coast and flood protection, reported that Cabinet had based its decision on all of the information available to it at its meeting on 14 July 2015. He said that, although Cabinet had recognised the need for a supported housing scheme for victims of domestic violence, the majority of members did not consider that Options i and ii of the report (ref 15/193) represented best value. He said that it was reasonable to opt for the highest market value given current financial pressures, and that this must continue to be his priority for the Council. He accepted that the financial situation had subsequently changed in relation to the land, adding that in the light of those changes, Option iii still did not preclude any organisation from submitting a tender and did not rule out any forms of development on the land.

The Committee agreed to ask Cabinet to re-consider the decision in the light of the successful legal challenge of the ministerial statement and the subsequent decrease in the site's value, the increased offer from Home Group, and the Council's allocation of the site for a refuge in its housing strategy.

RESOLVED: that the Resources Scrutiny Committee recommends that the decision taken by Cabinet on 14 July 2015 in respect of land at Danes Dyke, Newby, be reconsidered by Cabinet for the reasons cited by the Committee, and noting in particular that (a) the allocation of the land for a women's refuge is required for the Borough as identified in the housing strategy 2013-16; and (b) the increase in the Home Group's financial offer for the land.

7. CALL-IN OF AN INDIVIDUAL CABINET MEMBER'S DECISION: EASTFIELD PUBLIC HOUSE

[Note: Councillor M Cockerill was in attendance as portfolio holder for harbours, assets, coast and flood protection, to answer any questions. He remained in the meeting during the debate, but left the meeting while the Committee made its decision in accordance with good practice.]

The Committee considered a call-in of an Individual Cabinet Member (ICM) Decision taken on 4 August 2015, to remove the covenant relating to Eastfield Public House, Manham Hill, Eastfield. The covenant restricted the use of the site to that of a public house or a hotel only.

The Committee acknowledged the following correspondence that had been received and circulated to its members prior to the meeting: an emailed letter of representation from Ms HC Wright dated 21 September 2015; and a letter from GW Proudfoot Ltd.

Councillor A Randerson presented his case as the originator of the call-in as follows:

Whilst acknowledging that the land which was the subject of the ICM decision related to the public house and its immediate curtilage only, he expressed concern that the lifting of the covenant might set a precedent for development that could potentially make it more difficult to resist the future release of the surrounding public open space for development. He said that the Eastfield area already constituted a large development which had recently expanded in other parts, and as a result, it was imperative to protect the remaining open space to ensure the continued amenity of local residents.

In addition, Councillor Randerson expressed concern that it might not be possible to earmark any sum realised for the release of the covenant, specifically for the benefit of local residents.

Councillor M Cockerill, portfolio holder for harbours, assets, coast and flood protection, reported that the ICM decision related only to the pub and its immediate car park area and not to any other part the total open space adjoining Loders Green. He confirmed that all of the open space at Loders Green was in the Council's ownership, but that the land falling outside of the pub curtilage would remain unaffected by the removal of the covenant. He advised that his remit included obtaining the maximum benefit for the Council from the land, and that the current proposals represented best value. He could see no substantial reason to retain the covenant.

Members made the following key points in discussion:

It was felt that the area already had sufficient residential and retail developments elsewhere, and that such alternative uses would therefore be inappropriate for the site and may also constitute an over-development of the area.

It was imperative that the open space adjoining Loders Green was protected from further development and retained as a public recreation space.

In response to a question, the Director Mr N Edwards confirmed the Council's legal and financial position in relation to the site.

RESOLVED: that the Resources Scrutiny Committee proposes that the decision to remove the covenant in relation to Eastfield Public House, be referred back to the Individual Cabinet Member for reconsideration, on the grounds that the lifting of the covenant would be contrary to the amenity and best interests of the neighbourhood.

8. DATE OF NEXT MEETING

Tuesday 24 November 2015 at 2.00 p.m. in the Town Hall, Scarborough.

Chairman