

**MINUTES OF THE ADULTS AND COMMUNITIES SCRUTINY COMMITTEE
MEETING HELD AT 7PM ON
MONDAY, 28 OCTOBER 2019
BOURGES / VIERSSEN ROOM, TOWN HALL, PETERBOROUGH**

Committee Members Present: Councillors N. Simons (Chairman), R. Bisby, R. Brown (Vice-Chairman), K. Aitken, L. Coles, D. Fower, J. Howell, John Fox, M. Jamil, N. Sandford, I. Yasin.

Co-opted Member: Parish Councillor Neil Boyce

Officers Present:

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| Adrian Chapman | Service Director, Communities and Safety |
| Fiona McMillan | Director of Law and Governance and Monitoring Officer |
| Peter Carpenter | Acting Corporate Director, Resources |
| Paulina Ford | Senior Democratic Services Officer |
| David Beauchamp | Democratic Services Officer |

Also Present:

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| Councillor Steve Allen | Cabinet Member for Housing, Culture and Recreation |
| Councillor Peter Hiller | Cabinet Member for Strategic Planning and Commercial Strategy and Investments |
| Tristram Hill | Strategic Asset Manager, NPS |

23. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Howard and S. Bond. Councillor L. Coles and N. Sandford were in attendance as substitutes.

24. DECLARATIONS OF INTEREST

No declarations of interest were received.

25. REQUEST TO CALL-IN EXECUTIVE DECISION – AUTHORITY FOR THE ACQUISITION OF HOUSING FOR TEMPORARY ACCOMODATION – OCT19/CMDN/45

The purpose of this agenda item was to consider the call-in request that had been made in relation to the decision made by the Cabinet Member for Housing, Culture and Recreation and the Cabinet Member for Strategic Planning, Commercial Strategy and Investments on 10 October 2019 relating to the Authority for the acquisition of housing for temporary accommodation

The request to call-In the decision was made on 15 October 2019 by Mohammed Jamil and Councillor Ikra Yasin. The decision for call-In was based on the following grounds:

Criteria 3. Decision does not follow principles of good decision-making set out in Part 2, Article 11 (Decision Making) of the Council's Constitution, specifically that the decision maker did not:

(f) Follow procedures correctly and be fair

After considering the request to call-in and all relevant advice, the Committee were required to decide either to:

- a) refer it back to the decision making person or body for reconsideration, normally in time for its next scheduled meeting, setting out in writing the nature of its concerns and any alternative recommendations;
- b) if it considered that the decision was outside the Council's Budget and Policy Framework, refer the matter to the Council after seeking the advice of the Monitoring Officer and/or Chief Financial Officer; or
- c) decide to take no further action, in which case the original executive decision will be effective immediately.

In support of the request to call-in the decision, Councillor Jamil made the following points:

1. The Decision did not follow principles of good decision-making set out in Part 2, Article 11 (Decision Making) of the Council's Constitution because:
 1. Documents relevant to the decision could have been shared and discussed with group leaders to alleviate the problems highlighted.
 2. It was important ensure spending such a large amount of money represented good value for money for the taxpayer.
 3. The Valuation Report acknowledges that the Council were overpaying £3-4m above the market rate. There has been no evidence presented that this is good value for money. The Council are also being required to pay for the replacement of windows in the properties
 4. The Council should have used the Landlord Tenant Act 1954 to safeguard the council's interests and that of the tenants and create a better negotiating position.
 5. The Council were taking action to benefit a private company at the expense of people unable to find housing.

In support of the request to call-in the decision, Councillor Yasin made the following points

1. The Council were paying above market value for the properties at a time when the Council had £23m deficit. The funds could be used to provide investment elsewhere.
2. 100 houses could be acquired to rehouse 28 extra homeless families for the same spend.

The Committee asked questions of Councillors Jamil and Yasin as follows:

- Members suggested that it would usually be difficult to acquire such a large number of houses and asked what other opportunities there were to do so, besides this decision. Councillor Jamil responded that being able to buy several houses in one location did not make the decision good value for money and noted that housing had been available for

purchase in Bretton. Members responded that homelessness may be more effectively tackled if the houses are in one location.

- Members asked if they would consider paying more than market value for the properties if they knew that another local authority was bidding for them. Councillor Jamil responded that local authorities in London were able to purchase properties for a higher price. Councillor Jamil felt that there was scope to engage in further negotiation and a £140,000 discount on 72 properties was not satisfactory.
- Members noted that the St. Michael's Gate development included a wide range of properties and asked if they did not consider £185,000 per property to be good value for money. Councillor Jamil responded that houses in Peterborough were available for £120-140,000 so this decision represented poor value for money. Members commented that they had to take into account other factors such as the upheaval caused by relocating existing residents and was a sensible decision. This was not a decision being made simply on commercial grounds.
- Members commented that they would expect to receive a discount on properties if buying them in bulk. Councillor Jamil agreed with this statement.
- Members asked what the average market price was for a property in St. Michael's Gate currently. Councillor Jamil responded that the average price was £84,000 for flats and £135,000 for terraced houses.
- Members commented expressed concern that the price of these properties had increased significantly since October 2016. Councillor Jamil responded that it was known that properties appreciate which does not benefit renters. The Council would have saved money if it had bought the St. Michael's Gate properties at the earliest opportunity.
- Members asked what action they would take if another organisation purchased these properties. Councillor Jamil responded that it was important to ensure money was spent in the most effective way and St. Michael's Gate may not meet this criteria.
- Members asked what impact that recently reported changes (e.g. partition walls) had had on the value of the properties. Councillor Jamil responded that he had not investigated this issue but noted that some houses had been converted from family homes to HMOs.
- Some members suggested that selective licensing could be enforced on the current landlords Stef & Phillips as an alternative to purchasing the properties.
- Members asked how a cheaper price could be negotiated given that other local authorities might be willing to buy at the negotiated price and that the properties might continue to appreciate, with interest rates potentially increasing, increasing the cost to the council in the future. Councillor Yasin responded that it was important to note that the Council would also be paying for replacement of windows as well as the purchase price of the properties.
- Members stated that it was important to purchase the properties before another organisation did, noting the potential pressure on schools, healthcare services etc. that this could create. The reason the purchase price was now higher was due to the council not buying the properties at an earlier stage and questioned the rationale behind continuing to lease them. The Council had no choice but to purchase the properties despite the high price because of its obligation to rehouse those who lived there. Councillor Yasin responded that the use of the 1954 Landlord and Tenant Act would have safeguarded the Council's lease arrangements.

25. RESPONSE TO CALL-IN OF EXECUTIVE DECISION – AUTHORITY OF THE ACQUISITION OF HOUSING FOR TEMPORARY ACCOMODATION – OCT19/CMDN/45

There being no further questions from the Committee, Councillor Allen, Cabinet Member for Housing, Culture and Recreation accompanied by the Acting Corporate Director of Resources and the Strategic Asset Manager, NPS was invited to respond in answer to the call-in request.

In response to the request to call-in the decision, Councillor Allen, the Cabinet Member for Housing, Culture and Recreation invited the Acting Corporate Director of Resources to respond. The following points were made:

- It was noted that the formal response to the call-in could be found on page 11 of the reports pack. The Acting Corporate Director provided a summary of the various sections of this document.
- Purchasing the properties resulted in a £500,000 saving compared with continuing to lease them. If the residents were evicted, this would result in an extra £2m cost to the Council in temporary accommodation costs. The purchase therefore represented good value for the Council.
- In response to the concerns raised by Councillors Jamil and Yasin regarding transparency, the Acting Corporate Director responded that the previously Exempt Annex and Valuation report had been made public.

The Cabinet Member for Housing, Culture and Recreation, Cabinet Member for Commercial Strategic and Investments and the Acting Corporate Director, resources responded to comments and questions raised by members of the Committee. A summary of responses included:

- Members stated that the decision had not been discussed at Group Leaders meetings, despite making a request to do so and there having been an article in the local press reporting that the Council was overpaying for the properties. Members also asked why the valuation report was both Exempt and withheld from the Group Leaders meeting. The report was only made available to group leaders 8 hrs before the Call-in deadline. The report acknowledged that the Council were overpaying for the properties and was therefore highly embarrassing and withheld for that reason, rather than commercial confidentiality. Officers responded that the valuation report had been undertaken by Barker Storey Matthews and it was important to consider the value of the purchase to the Council. Valuation information in property transactions is routinely exempted from publication due to commercial confidentiality. The information can now be made public as the negotiations have concluded.
- Members asked how an average price of £180,000 per property was acceptable given that many houses in Peterborough could be purchased for £120-130,000. The Cabinet Member for Strategic Planning, Commercial Strategy and Investments responded that valuations were subjective, and properties were worth what someone was willing to pay for them. Leasing the properties initially was the right decision and the Council had not been offered the chance to purchase them at that time. If Peterborough City Council did not purchase the properties, it was likely that another local authority would. If the Council bought properties off the open market instead of St. Michael's Gate, 80 households would need to be rehoused in temporary accommodation. Buying St. Michael's Gate outright gave the Council complete control over the development and this was worth paying a premium for. The transaction represented good value for money for the city's taxpayers.
- Members asked how the Council's security of tenure had affected the decision to purchase the properties and what the cost to the Council would be if they had to provide services to tenants re-housed by another local authority. The Cabinet Member responded that the consequences would be the eviction of 80 households and a negative impact on already overstretched frontline services.

- The Acting Corporate Director re-emphasised the saving of £500,000 of purchasing the properties vs continuing to lease them.
- The Council would receive a lower level of housing benefit if people were housed in temporary accommodation, contributing to a further £1.5m cost.
- Members expressed concern that 8hrs was insufficient time to review the Valuation Report. Officers stated there were restrictions on when the report could have been released.
- Other members clarified that they were not aware of this report at all when the Group Leader's meeting took place. Officers responded that that it was not standard practice to release such information.
- Members responded that the 'public interest test' must be applied to exempt information and it could be argued that the public interest in revealing this information outweighed commercial considerations on keeping it restricted in this instance due to the fact that the information contained within the Valuation Report was embarrassing to the Council.
- In response to an earlier point regarding the negative impacts of tenants from other local authorities behind rehoused in Peterborough, members asked why the Council had a policy of expanding the City to 230,000 people if this was the case. The Cabinet Member for Strategic Planning, Commercial Strategy and Investments responded that the city was growing due to its general success and car-friendly nature. Re-housing people in temporary accommodation was a different issue.
- Members queried why a discount had not been obtained given the large number of properties being purchased, why the Council were incurring additional costs and why the Council were paying £4m over market value for the properties.
- Officers stated that £620,000 had in fact been negotiated off the asking price.
- The amount of money paid for the valuation report was not in the public domain.
- Members queried why the Council had commissioned the valuation report, if its advice was to be ignored. Officers responded that it had been used as a guide.
- It was not known if there had been any offers for the properties from other councils as this was confidential information.
- The Cabinet Member for Strategic Planning, Commercial Strategy and Investments stated that there had been considerable evidence of interest from other local authorities when the properties were first leased. It was inconceivable that this was not the case now due to the current housing situation across the U.K. Officers added that it would be widely known that the Council's lease was expiring.
- Members expressed scepticism about the claim that other local authorities might purchase the properties and noted that the Council had a strategy in place to deal with this possibility.
- It was noted that an investment had been made in upgrading gas central heating, but this had been paid for via energy bills, not at the Council's expense.
- The Cabinet Member for Housing, Culture and Recreation summarised the rationale for purchasing St. Michael's Gate, noting that the eviction of tenants could not be allowed to take place as it was not possible to purchase 72 properties elsewhere and that the Council were saving £500,000 by purchasing these properties. The Cabinet Member had been happy to make this decision and encouraged the Adults and Communities Scrutiny Committee to support it.
- Members asked the Acting Corporate Director of Resources if he felt that it was the right decision to purchase St. Michael's Gate. The Director responded in the affirmative due to the strain on the provision of temporary accommodation.
- Members asked if local authorities should be investing in building their own property portfolios. The Cabinet Member for Strategic Planning, Commercial Strategy and Investments responded in the affirmative and stated that the Council were currently taking this action. Officers added that doing so enabled the Council to exercise full control over the properties it owned.

There being no further questions of the Cabinet Member and having heard all the evidence the Committee debated the request to call-in the decision and whether the Committee should:

- a) refer it back to the decision making person or body for reconsideration, normally in time for its next scheduled meeting, setting out in writing the nature of its concerns and any alternative recommendations;
- b) consider if the decision was outside the Council's Budget and Policy Framework, and therefore refer the matter to the Council after seeking the advice of the Monitoring Officer and/or Chief Financial Officer; or
- c) decide to take no further action, in which case the original executive decision will be effective immediately.

The Committee debated the call-in request and in summary, key points raised and responses to questions included:

- The main issue was the short timeframe made available for this decision to be taken, limiting the time available to discuss it and this represented naivety on the Council's part. There was now little choice available but to proceed with the purchase and paying a high price for the properties was the consequence of not acting earlier.
- Although the price being paid for the properties was too high, the decision should be allowed to proceed due to the cost savings vs. continuing to lease the properties and the need for a quick decision.
- Members reiterated concerns that the Valuation Report had not been made available at the Group Leader's meeting and that this was only released after a later request. The conclusions of the report were highly concerning as it used words such as 'excessive' to describe the price being paid by the Council for the properties. It was unreasonable for the Council to pay significantly more than the market value for the properties, regardless of how advantageous the purchase was for the Council. It was acknowledged that the purchase of individual properties may not be a practical solution to purchasing St. Michael's Gate.
- Some members felt that it was questionable that other local authorities would pay more than the market rate for the properties now that the valuation report was in the public domain. The Committee should therefore refer the decision back to the Cabinet Member, asking them to renegotiate it. Paying £4m over the market value was not acceptable at a time when streetlights were being turned down to save money and the decision raised questions over whether decision makers behaving reasonably and in the interests of the Council.
- The Council had 3 years to prepare for the expiration of the lease so last-minute decision making was concerning. The decision should therefore be referred to the Cabinet Member for reconsideration.
- Other members queried if this was the case. Members responded the lease was from 2016 to 2019 so it was known that something would have to be done following its expiration.
- Members commented that if this issue could have been avoided if the Council had security of tenure.
- The Cabinet Member for Strategic Planning, Commercial Strategy and Investments that this situation had emerged suddenly. The Council had been aware of this issue since they took out the original lease.
- Members commented that it was important to consider the needs of the residents of St. Michael's Gate and expressed concern that their voices had not been heard, emphasising the importance for everyone to have a home in which to feel safe and secure. Concern was expressed that the Council had been insufficiently aggressive in its negotiations to purchase the properties.

- Members echoed the comments above and stated that the only way to give the residents security was to purchase the properties. The needs of the residents should be considered alongside the Council's interests.
- It was noted that the decision to take out the lease was originally made by the current Cabinet Member for Strategic Planning, Commercial Strategy and Investments. This issue now came under the portfolio of the Cabinet Member for Housing, Culture and Recreation.
- The Cabinet Member for Strategic Planning, Commercial Strategy and Investments noted the importance of temporary accommodation and agreed that it was important to reflect on the concern of residents. The last thing he would want to do is ask these people to relocate to other temporary accommodation such as B&Bs.
- Members noted the concerns over value for money but expressed support for allowing the decision to proceed given limited scope to renegotiate. Officers added that there was scope to negotiate reduce the purchase price by £100-150,000 as the Council's current offer was subject to a survey but more significant reductions were unlikely, despite having shared the results of the valuation with Stef & Phillips. The Council had tried to reduce the price further, but this had not proved possible.
- It was noted that Stef and Phillips were the management agents and did not own the properties.
- The initial opening offer made by the Council was approximately £2m under the current price.
- Some Members felt that the publication of the Valuation Report strengthened the Council's case as it was now publicly known that the properties were only worth £8-10m. It was therefore questionable that another local authority would pay the asking price for the property under these circumstances. Officers responded that purchasing the properties at the asking price would represent a significant saving in accommodation costs for some local authorities.
- Members stated that the eviction of current residents was untenable, but some attempt should be made to reduce the purchase price, even if this may be rejected.
- Members noted that limited time was available to make the decision, but consideration should be given to making a 'sensible' offer to Stef and Phillips.

Following debate the Chairman, reminded committee members that: Call-in should only be used in exceptional circumstances where Members of a Scrutiny Committee have evidence which suggests that the Executive did not take the decision in accordance with the principles set out in Part 2, Article 11 (Decision Making) of the Council's Constitution.

The Committee would need to base their decision on the facts and evidence that had been presented to them during the meeting.

After considering the request to call-in and all relevant advice, the Committee have the following options:

- (a) refer it back to the decision maker for reconsideration, setting out in writing the nature of our concerns and any alternative recommendations;
- (b) if we consider that the decision is outside the Council's Budget and Policy Framework, refer the matter to the Council after seeking the advice of the Monitoring Officer and/or Chief Financial Officer; or
- (c) decide to take no further action, in which case the original executive decision will be effective immediately

The Chairman asked for any proposals based on one these three options:

Councillor Bisby, seconded by Councillor Aitken proposed option C: that the Committee should decide to take no further action, in which case the original executive decision will be effective immediately.

This proposal was put to the vote. The Committee voted **IN FAVOUR** of this proposal **NOT** to uphold the call-in (6 in favour, 5 against, 0 abstentions).

Councillor Fower, seconded by Councillor Jamil, proposed option A: that the Committee should decide to refer the decision back to the decision maker for reconsideration, setting out in writing the nature of our concerns and any alternative recommendations, and in particular that relevant officers and members should seek to secure a better deal through negotiation.

The proposal was put to the vote. The Committee voted **AGAINST** the proposal to agree the request to call-in the decision (5 in favour, 6 against, 0 abstentions).

Officers noted that the Council would have either had to renew the lease or purchase the properties.

ACTIONS AGREED:

The request for call-in of the decision made by the Cabinet Member for Housing Culture and Recreation and the Cabinet Member for Strategic Planning and Commercial Strategy and Investments on 10 October 2019 relating to the Authority for the acquisition of housing for temporary accommodation was considered by the Adults and Communities Scrutiny Committee. Following discussion and questions raised on each of the reasons stated on the request for call-in the Committee did not agree to the call-in of this decision on any of the reasons stated. It was therefore recommended that under the Overview and Scrutiny Procedure Rules in the Council's Constitution (Part 4, Section 8 and paragraph 10), implementation of the decision would take immediate effect.

Chairman
7pm – 8.20pm