

OVERVIEW AND SCRUTINY COMMITTEE

15 AUGUST 2023

Present: Councillors Patmore (Chair), Sinden (Vice-Chair), Carr, Cooke, Foster, Hay, Hilton, Roberts, Turner and Webb

Officers: Jane Hartnell (Chief Executive), Amy Terry (Property and Commercial Assets Manager), Stephen Dodson (Head of Strategic Programmes)

1. APOLOGIES FOR ABSENCE

None received.

2. DECLARATIONS OF INTEREST

Councillor	Item	Interest
Cllr Hay	3	Personal – ESCC Councillor
Cllr Hilton	3	Personal – ESCC Councillor
Cllr Webb	3	Personal – ESCC Councillor

3. CALL IN - LAND AND PROPERTY DISPOSAL PROGRAMME

The Continuous Improvement and Democratic Services Officer explained call in is procedure of overview and scrutiny. The meeting must be held within 8 days. The Continuous Improvement and Democratic Services Officer explained the committee has 3 options. These are to determine that the original decision to be implemented, or it should be referred back to cabinet for reconsideration or that the decision be referred to Full Council.

The Chair read a statement:

It is highly unusual for a cabinet decision to be called-in for discussion, and in the current financial circumstances the Council finds itself in, the committee has not taken this decision lightly.

It is hoped the call-in of this decision will lead to more transparent and comprehensive reports going to cabinet so members and the public have a true record and understanding of how decisions have been made.

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The disposal of the capital assets is being undertaken to bolster the Council's financial position which is understandable. However, this does not negate the need for decisions to be scrutinized and cabinet reports to address the relevant issues.

Structural concerns in the report: "Land and Property Disposal Programme" are:

- How the recommendation relates to the corporate plan
- How these disposals have been identified when there isn't any asset management plan until CIPFA have completed their report in November.
- Part 15 of the cabinet report states: *There are risks associated with disposing of land/property, but it is considered that the market conditions are currently suited to bringing forward the identified sites.* The risks are not explained. For example, the report doesn't state there is a risk grant funding might need to be repaid.
- Recommendation 5 in the LGA Peer review stated that the Council should be improving business cases but no business case appears in the report.
- In the recent Treasury Management training, CIPFA Codes for Capital Strategy stated that our capital strategy should include the following (the section 151 officer agreed these should be covered in any related report) and contain an appropriate level of detail in respect of:
 - Legal power for a scheme to be undertaken
 - Evidence of robust option appraisal work
 - Consideration/quantification of sensitivity analysis outcomes
 - Impact on revenue budget and balance sheet resources
 - Section 151 Officer to vouch for skill-sets of external consultants
 - Committee Members to be adequately briefed on any material risks

In conclusion:

The Council is likely to be selling off more assets, so setting a standard template of good practice for future cabinet reports would be the committee's minimum recommendation.

Due to the discussion of commercial sensitive information the public were excluded. Proposed by Cllr Patmore seconded by Cllr Roberts

The following information is not confidential so is included here.

Q: Has there been any conversation with the team undertaking the Asset Management Strategy to get their views on these disposals? If not why not? Surely they would have some high level sense by now of what might be the best options?

The Chief Executive explained conversation have been had with CIPFA and they agree with the recommendations.

Q: How is this £3 million estimate split between the disposals and how were these figures arrived at?

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The Property and Commercial Assets Manager answered the committee. The Councillors asked how the figures have been come to? Property and Commercial Assets Manager explained they are her professional opinion with knowledge of the local market.

Q: At the cabinet meeting the Chief Finance Officer mentioned that part of the reason for selling Bexhill Road is to reduce our future capital borrowing requirement in terms of the funding needed to build the houses. This is reasonable but should also have been included in the report recommendations along with the estimated sum we had expected to borrow but now won't need to?

The Chief Executive explained there is not currently the staff capacity to build on Bexhill Road and Mayfield E. If the sites are sold to the market, then they will be able to build houses quicker to help with increasing accommodation which the town needs.

Q: Risk management report merely states 'There are risks associated with disposing of land/property, but it is considered that the market conditions are currently suited to bringing forward the identified sites'. On what basis? Is two lines really considered a thorough analysis of risk? The report should have made clear the amount of money that needs paying back to Homes England on York buildings (over £300,000) and Lower Bexhill Road (£160,000) if we sell the property and land.

The Chief Executive explained the information was available in other previous reports. The committee highlighted the need for the information to be in all reports.

Q: Are any additional loans or other repayments that would need to be made other than those that have already been mentioned on these pieces of land?

The Chief Executive explained there is not thought to be.

Q: Who was responsible for the decision to progress this to a cabinet decision without a proper business case for each site or any other financial figures, even as part 2 documents?

The Chief Executive explained that she is the council's senior officer and therefore responsibility sits with her. All officers have been asked to put forward cost savings. It is officers' belief that the business case is pretty simple – that the two housing sites can be built on quicker than the council would be able to. York Buildings is also surplus to requirement and not able to be used for any of the council's current priority needs.

Q: What do you think LGA Peers from the Finance Peer Review Team might say about how it was handled? Do you think this could have been done better and if yes, how?

The Chief Executive explained that sites have been identified as they do not provide opportunities to meet council priorities and that the LGA encouraged the council to increase the pace of its asset disposal programme to assist with the current financial

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crisis. CIPFA have been asked to identify site by business cases looking at organisational impact analysis, cost of maintenance and energy management. Cllr Foster asked a question about potential for developing the land at Upper Wiltling Farm. The Chief Executive explained the land is in Rother, it has protected status, and is part of the 'strategic gap' therefore there are no plans or options to build on it in the foreseeable future.

Q: Capacity has repeatedly been cited as a reason for why there is no financials and business cases with this report – is the council lacking in capacity to a point now where it can't operate within industry standards and expected guidelines? Should this lack of capacity be addressed to help the council function more effectively in order to deal with the situation at hand and avoid a Section 114 notice?

The Chief Executive explained the council needs to achieve quick sales of assets as recommended by the LGA. Officers will be asked to make reports clearer.

Land at rear of 419 to 447 Bexhill Road (Bexhill Road south) and Mayfield E

According to the latest Cabinet report, "These two sites were declared surplus to requirements some time ago". Yet in the 23/24 Corporate Plan it states: "Progress developments on council owned land such as Bexhill Road South and Mayfield E to meet our affordable homes target."

Q. Can you help the O and S committee understand the time-line and why these sites were included in the Corporate Plan if they had already been identified as surplus to requirements?

The Chief Executive explained the conclusion had only just been reached this summer that these schemes cannot be completed now due to a lack of capital and staff capacity.

Q. How will the loss of a guaranteed 54 (plus 6 in York Buildings) social homes affect the 500 homes target in the Corporate Plan?

The Chief Executive explained the houses were included in the 500 homes. There are however now several sites which will be bringing forward more than planned social housing. An update report will be bought after the arrival of the new Head of Housing. Cllr Turner asked regarding checking leases. The Chief Executive answered checks would be down to capacity in the property team.

Q. Are offers open to the highest bidder or to the bidder who might provide 100% affordable housing? How will the Council's aspiration of achieving 100% affordable homes on both sites influence the maximising of revenue achievable on the sale of both sites on the open market?

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The Property and Commercial Assets Manager explained the Council is under a duty to obtain best consideration. The committee asked regarding selling the land. The Property and Commercial Assets Manager explained best consideration would be the minimum. Cllr Foster asked if the priority is capital receipts or affordable housing. The Chief Executive explained it is a balancing act. NB the Cabinet report contained a link to an explanation about the statutory duty regarding achievement of best consideration.

York Buildings:

Q: Regarding York Buildings, has proper modelling been undertaken to assess whether it is best for HBC to sell off the asset but retain the freehold, or sell as individual units, vs selling as a block? We should be able to see this modelling as part of a well-rounded business case and that should perhaps have been a decision for Cabinet to have made on this building.

The Chief Executive explained it's the professional opinion of officers to sell the building as one.

A previous Cabinet paper stated: The Council has been awarded funding of £303,910 through the Affordable Homes programme to deliver the units at York Buildings as Affordable Rent. Once accepted, this will place a restriction on how the properties can be used.

Q. It is stated the Council have started a conversation with Homes England. What was Homes England's response? Will this money need to be repaid? And if not, will Homes England's conditions be covenanted to a potential buyer?

The Chief Executive explained there are conversations on going with Homes England.

Returning to the agenda on 2nd September 2019 to agree the Council spending more money on the project (and bearing in mind it would come to Cabinet once more for a further uplift in costs). Cabinet Papers stated, point 7; "It would not be viable to undertake the work and then sell the flats".

Q. What makes the sale viable now?

The Chief Executive explained the market in Hastings has changed significantly since 2019.

Councillor Barnet said in the public meeting that York Buildings was likely to make a profit – on what figures is he basing this statement as none were presented in the report?

It was mentioned by the Leader of the Council that, "(York Buildings) might yet return a small profit."

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The York Building project has been in inception since 2017 (and possibly earlier?). In addition to refurbishment and consultancy costs, it has taken countless hours of officer time, cost of borrowing, MRP and maintaining the property during its void period. It was also mentioned at Cabinet how much officer time it had taken up trying to find solutions to rent the property out. Also, the entire building value must be considered before the refurbishment was started.

Q. Will there be a full breakdown of all the quantifiable costs so that it can be determined whether a profit or a loss has occurred since 2017? If not, will officers advise cabinet that this cannot be determined?

The Chief Executive answered the committee with figures of expenditure.

Due to the unique nature of York Buildings and its Grade II listed status and, as advised, “it will also relieve the Council of responsibility for the costs and management of maintaining the building which are significantly more expensive, and complex compared to traditional social housing.”

Q. Would York Buildings still have been put up for sale even if the Council were not in financial difficulty?

The Chief Executive explained the building is now surplus to requirement and would be recommended to Councillors to sell regardless.

A building survey must’ve taken place before York Buildings was deemed suitable to be redeveloped for social housing, along with feasibility studies and a business case.

Q. Why has it taken the Council six and a half years to determine the property is unsuitable for social housing?

The Chief Executive explained the project was started as a regeneration project. The plans have changed overtime. Cllr Hay asked regarding the previous project planning. The Head of Strategic Programmes explained a full review has been completed and robust project management has been put in place for projects started later than this one.

It was decided by the Council to do a far more complex refurbishment of a Grade II listed building owned by the Council in Wellington Square. Given the complexity of the refurbishment and the amount of officer time needed, plus the many risk variables involved. Added to that all the lessons learnt redeveloping York Buildings;

Q. Has the Council thought to reconsider the decision to refurbish the Wellington Square property? What lessons have been learnt from the York building sale in relation to the council buying further housing for use as temporary accommodation?

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The Chief Executive answered the lessons from York Building are being considered as part of the Wellington Square project. The Town Deal project output is intended to increase affordable housing in the town centre and set new sustainability standards for the refurbishment of listed buildings. Projects of this nature are a challenge and require external subsidy to test approaches which the market would not normally attempt.

Q. Why are sales of this size a cabinet decision?

The Chief Executive explained that the levels of decision-making are set out in the constitution.

The committee discussed what their recommendation will be. The committee discussed a proposal that a report be submitted to cabinet explaining what the committee would expect to be seen in reports regarding future disposals. Councillor Hilton requested that a 'lessons learnt' report be prepared and submitted to cabinet referring to the CIPFA training and what is expected to be included in future reports, including the RAG rating that needs to be applied to future assets and that details of 'best consideration' is included.

Proposed by Councillor Turner and Seconded by Cllr Carr

Resolved Unanimously

Recommendations:

1. After hearing evidence and reasons regarding the decision called in, the committee chose option:
 - A. The matter does not need to be referred back and the original Cabinet decision can be Implemented.

A lessons learnt report will be prepared and submitted to the next Cabinet meeting.

(The Chair declared the meeting closed at. 7.21 pm)