



Assistant Director of Legal, Governance and Monitoring

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Decision Summary

Committee:
MANAGEMENT COMMITTEE

Date:

Committee Clerk:

TEL:

OVERVIEW AND SCRUTINY

WEDNESDAY 18 NOVEMBER 2015

Richard Dunne

01484 221000

Chair

Councillor David Hall

Councillors Attended

J Stewart-Turner, A Marchington, S Ullah, Rigby and Walton

Attendees

Co-optees

David Rigby and Robert Walton

Apologies

Councillor Cahal Burke and Councillor Carole Pattison

Observers

1 Interests

The Councillors will be asked to say if there are any items on the Agenda in which they have disclosable pecuniary interests, which would prevent them from participating in any discussion of the items or participating in any vote upon the items, or any other interests.

No interests declared.

2 Admission of the Public

Most debates take place in public. This only changes when there is a need to consider certain issues, for instance, commercially sensitive information or details concerning an individual. You will be told at this point whether there are any items on the Agenda which are to be discussed in private.

All items considered in public session.

3 Deputations/Petitions

The Board will receive any petitions and hear any deputations from members of the public. A deputation is where up to five people can attend the meeting and make a presentation on some particular issue of concern. A member of the public can also hand in a petition at the meeting but that petition should relate to something on which the body has powers and responsibilities.

None received.

4 Call-in of Cabinet decision in relation to the Mirfield Community Centre - Asset Transfer.

The Panel will formally receive and note the notice of call-in and consider the issues raised in relation to the decision taken by Cabinet on the 20th October 2015, on the Mirfield Community Centre – Asset Transfer.

Contact: Richard Dunne - 01484 221000

The Overview and Scrutiny Management Committee has considered the notice of call-in respect of the decision made by Cabinet on the 20th October 2015 in regarding of Mirfield Community Centre Asset Transfer.

The Committee heard from all parties both in person and in writing; evaluated all of the points raised in the call-in notice; and weighed up the evidence in respect of the decision. The Committee also studied all relevant background information to assist in determining the rationale behind the decision and to determine if it was made in accordance with the Council's decision-making principles.

The Committee, whilst appreciating that this may be an emotive issue for those affected, has had to focus on the facts informing the decision made by Cabinet.

According to the Council's Constitution, the Committee had three options available to it;

- (1) To take no further action and free the decision for implementation.
- (2) To refer it back to Cabinet with recommendations for amendment
- (3) To refer it back to the next Council, if the Panel considered that the decision was not made in accordance with the budget or policy framework

The Committee had sought advice from the Assistant Director: Legal Governance and Monitoring and was satisfied that the third option did not apply in this instance.

It was therefore the Committee's decision that, taking all factors into account:-

(1) The Cabinet's decision to review the previous decision of Cabinet in 2002 in relation to Mirfield Community Centre and to demand new terms form the Mirfield Community Trust failed to take full account of the Asset Advancement Policy set by Cabinet on 08 Oct 2013.

The Committee shared this concern. The cabinet report of 20 October 2015 stated that the Current Asset Advancement Policy requires asset transfers to be approved with restrictive covenants for community use. However, this was not a requirement which was specified in the Asset Advancement Policy.

In addition, there were reasonable grounds to support the call-in, as the Committee found no evidence that principles 13.2 a and 13.2 i of the constitution were fully adhered to. There was no evidence that the flexibility of the policy was considered and that Cabinet explored all alternatives, and why those would be discounted.

(2) Other asset transfers have not been subject to covenants, which was said to be applied to all transfers, and is not reflected in the policy mentioned above.

The Committee was satisfied that other asset transfers had been subject to covenants.

(3) The decision made by Cabinet is a breach of Article 13.2 of the Council's Constitution.

In addition to the concerns relating to 13.2 a and 13.2 i of the decision making principles, the Committee had further concerns relating to 13.2 b and 13.2 h with respect to the proportionality of the desired outcome, and the clarity of aims and desired outcomes. There was no evidence to show that the decision took into account whether it was feasible and desirable to enter into an agreement/arrangement that would enable the covenant to be released on sale and for the proceeds to be used specifically for the ongoing project to develop the Guilder Hall site.

(4) The decision made by Cabinet may have been pre-determined as the cabinet member's recommendation appeared on the report, before all consultation had been received. Therefore, the Cabinet Member was not in possession of all the facts when making his recommendation/judgement.

The committee was satisfied that there was no evidence of pre-determination of the decision.

The Committee recommended that the decision be referred back to Cabinet with the following recommended amendment:-

* To consider the feasibility and desirability of entering into an agreement/arrangement that would enable the covenant to be released on sale and for the proceeds to be used specifically for the ongoing project to develop the Guilder Hall site.
