

Name of meeting: Overview & Scrutiny Management Committee

Date: 18th November 2015

Title of report: Mirfield Community Centre – Asset Transfer Proposal and Review of 2002 Cabinet Decisions Regarding Capital Receipt

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Yes
Is it in the Council's Forward Plan ?	Yes
Is it eligible for "call in" by Scrutiny ?	Yes
Date signed off by <u>Director</u> & name Is it signed off by the Director of Resources? Is it signed off by the Assistant Director - Legal & Governance?	N/A For Information purposes only
Cabinet member portfolio	Resources and Community Safety Cllr Graham Turner

Electoral [wards](#) affected: All

Ward councillors consulted: N/A

Public or private: Public Report

1. Purpose of report

To provide members of the Overview and Scrutiny Management Committee with background information in respect of the Call-In.

2. Key Points

- 2.1 On 27th October 2015, the Assistant Director for Legal, Governance & Monitoring received written notification from 6 non-executive councillors of their wish to call-in a decision of Cabinet made on 20th October 2015. The decision was in relation to the Mirfield Community Centre – Asset Transfer proposal and review of the 2002 Cabinet decision regarding capital receipt. A copy of the notice, including reasons for the call-in and the decision of cabinet is attached at Appendix 1.

- 2.2 **The Assistant Director for Legal Governance and Monitoring has discretion, under section 18 paragraph 18.8 of the Overview and Scrutiny Procedure rules, to extend the period during which the appropriate Scrutiny Panel must meet. As such an extension has been granted due to the availability of key parties - TBC**
- 2.3 The Committee has access to all papers considered by the Cabinet when making the decision, and will be able to question the relevant officers and Cabinet Members. Committee Members are also able to hear from other interested parties including other councillors and members of the public. A detailed timetable for the Committee meeting is attached at Appendix 2.
- 2.4 The Committee should focus its attention and questions on those issues that are the subject of the call-in.
- 2.5 Once the Committee has considered the decision and all supporting information and evidence, it must resolve either to:
- (1) Free the decision for implementation
 - (2) Refer it back to the Cabinet with a recommendation for amendment
 - (3) In exceptional circumstances, refer the issue to the next Council meeting if the decision is not consistent with the budget or any policy previously agreed by the Council. This can only be done with advice from the relevant senior officers and the Assistant Director: for Legal, Governance & Monitoring.
- 2.6 If the decision is referred back to Cabinet, it will be considered at the next meeting of Cabinet. Cabinet may:
- Accept the recommendation of the Scrutiny Panel and amend its decision;
 - Decide that further work needs to be done and defer the item until this is completed. The Overview and Scrutiny Management Committee should be kept informed of the work as it progresses and be formally notified when it is to be reconsidered;
 - Not accept the view of the Scrutiny Committee and confirm its original decision;
 - Refer the issue for discussion at the next appropriate Council meeting.
- 2.7 If the Cabinet rejects the recommendation from the Committee and confirms its decision, it can be implemented immediately as there is no scope for further review and challenge. A decision may only be reviewed once.

3. Implications for the Council

There are no specific implications for the Council within this report as the Committee does not have decision making powers. However as a result of hearing the call in evidence, recommendations may be made to

Cabinet to amend its decision which, if accepted, could result in implications for the Council.

4. Consultees and their opinions

No consultation was appropriate in respect of the contents of this report.

5. Next steps

Following consideration of all the information and evidence, Members of the Committee need to make one of the following three recommendations, in accordance with the Council Procedure Rules:

- (1) Take no further action and free the decision for implementation.
- (2) Refer it back to the Cabinet with recommendation(s) for amendment.
- (3) In exceptional circumstances, refer to the next Council meeting (only if the decision is not in line with the budget or any policy previously agreed by the Council. This can only be done with advice from the relevant senior officers and the Assistant Director: for Legal, Governance & Monitoring.)

6. Officer recommendations and reasons

That Members of the Committee consider all of the information and evidence and make one of the above three recommendations, in accordance with the Council Procedure Rules.

7. Cabinet portfolio holder recommendation

Not applicable

8. Contact officer and relevant papers

Penny Bunker, Governance & Democratic Engagement Manager

Tel: 01484 221000

Email: penny.bunker@kirklees.gov.uk

9. Assistant Director responsible

Julie Muscroft Assistant Director: Legal, Governance & Monitoring

NOTICE OF 'CALL IN' TO OVERVIEW AND SCRUTINY

We, the undersigned, give notice of our wish to refer the decision of Cabinet, made at item 9 (Mirfield Community Asset Transfer) of the agenda considered at the meeting on 20 October 2015 , to Overview and Scrutiny for review under the 'call in' procedure contained in section 18 of the Overview and Scrutiny Procedure Rules.

We regard the Cabinet's decision to review the previous decision of Cabinet in 2002 in relation to this Centre and demand new terms from the Mirfield Community Trust did not take full account of Council policy and other decisions in respect of asset transfers.

In addition we believe that the decision made by Cabinet is a breach of the following sections of Article 13.2 of the Council's Constitution, which states that the following principles should apply to decision making:

- 13.2 a. due regard to all relevant considerations and disregard of all irrelevant factors;
- 13.2 b. proportionality (i.e. the action must be proportionate to the desired outcome);
- 13.2 c. lawfulness and financial propriety and prudence;
- 13.2 d. all due consultation;
- 13.2 e. the taking of professional advice from officers;
- 13.2 g. a presumption in favour of openness;
- 13.2 h. clarity of aims and desired outcomes;
- 13.2 i. the ability to explain the options considered and the reasons for decisions

IN PARTICULAR

We regard the Cabinet decision as failing to take due regard of the principal policy they refer to, that potentially their approach may not be consistent throughout the borough and that potentially the decision may have been predetermined.

ADDITIONAL INFORMATION AND/OR RECOMMENDED COURSE OF ACTION

A review of the decision would allow review of the decision making process, the cabinet evaluation & consideration of existing policy and hopefully recommendations to shape the future of any similar decisions and processes.

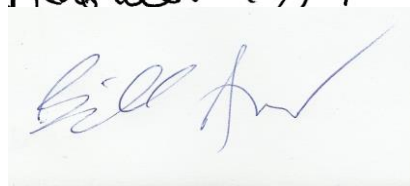
DATED: 26 October 2015

SIGNED:

Melvin Bolt



Kathleen Taylor



Oliver L. Hamilton



Decision of Cabinet on 20TH October 2015

Mirfield Community Centre - Asset Transfer proposal and review of 2002 Cabinet decision regarding capital receipt.

A report seeking approval to authorise officers to transfer the freehold of Mirfield Community Centre, Water Royd Lane, to Mirfield Community Trust.

Officer: Jonathan Quarmby – 01484-221000

1 That officers be authorised to transfer the freehold of Mirfield Community Centre, Water Royd Lane, Mirfield to the Mirfield Community Trust for no premium, subject to a restrictive covenant that will prevent the premises being used for any other purpose than community use.

2 That approval be given to the delegation of the authority of the Assistant Director for Physical Resources and Procurement and the Assistant Director of Legal Governance and Monitoring to negotiate and agree the terms of the freehold transfer that relate to the transfer of the Mirfield Community Centre to Mirfield Community Trust.