

GROWTH SCRUTINY COMMITTEE

Minutes of a meeting of the Growth Scrutiny Committee of the Bolsover District Council held in the Virtual Meeting by Video Conference and Live Stream on the Council's website on Wednesday, 10 June 2020 at 10:00 hours.

PRESENT:-

Members:-

Councillor Jen Wilson in the Chair

Councillors Tricia Clough (Vice-Chair), Derek Adams, Jim Clifton, David Dixon, Chris Kane, Tom Kirkham, Tom Munro, Graham Parkin, Peter Roberts and James Watson.

Officers:- Grant Galloway (Director of Development), Sarah Sternberg (Joint Head of Corporate Governance & Monitoring Officer), Victoria Dawson (Solicitor - Team Manager (Contentious)), Joanne Wilson (Scrutiny and Elections Officer), Nicola Calver (Governance Manager) and Donna Cairns (Senior Governance Officer).

Also in attendance at the meeting was Councillor Anne Clarke.

GRO1- APOLOGIES FOR ABSENCE 20/21

There were no apologies for absence.

GRO2- DECLARATIONS OF INTEREST 20/21

There were no declarations of interest made at the meeting.

The Monitoring Officer confirmed that there was no conflict of interest between this Committee's consideration of the call in and the Planning Committee decision on the related planning application, as this call in was reviewing the land sale and not the planning permission. The land sale was a separate decision to that taken by Planning Committee performing the Council's role as the planning authority, to which a specific legal and policy framework applied. In the interests of transparency however, the Monitoring Officer confirmed that the Councillors who took part in the Planning Committee decision were Councillors Derek Adams, Chris Kane, Jim Clifton, Graham Parkin and Jen Wilson.

Councillor James Watson informed the meeting that although he was a Member of Planning Committee, he had not been present at the meeting that considered the relevant application.

GRO3- CALL IN OF DELEGATED DECISION - SALE OF LAND AT GLAPWELL 20/21 (DD-025-20-DC)

This extraordinary meeting of Growth Scrutiny Committee had been called to

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consider the call in of the decision to sell a strip of Council owned land at Park Avenue, Glapwell. This decision had been made by the Director of Development on 7th May 2020. The Committee heard from the Members who called in the decision, followed by the Director, Grant Galloway, with an opportunity to ask questions of both parties.

Prior to the implementation of the decision, a valid call in of the decision had been received on 15th May 2020 submitted by Councillors Tricia Clough; Tom Kirkham and Anne Clarke.

The call in request set out the grounds on which these Members believed the decision was contrary to the decision-making principles. It was published on the Council's website and attached to the report. In summary the call in raised the following concerns:

- *Proportionality* - The controversial sale of the land (to a local developer) was rushed.
- *Due consultation and the taking of professional advice from officers* - Consultation had been minimal and range of advice limited.
- *Respect for human rights* - Resident needs and the use of the land had not been taken into account.
- *A presumption in favour of openness* - The decision to sell to one party was not transparent.
- *Clarity of aims and desired outcomes* - Lack of clarity risked accusations of conflict of interest.
- *Regard for equal opportunities* - Deprivation of space for disabled, elderly and vulnerable
- *Options are considered and reasons given for the decision* - Offer to one developer was not justified.
- *Consideration of all relevant factors* - The sale would have increased pressure on the village which is recognised by officers as at capacity.
- *Decision is in the best interests of the District as a whole* - The sale was not in the social and economic interests of the District.

The Scrutiny & Elections Officer presented the report to Committee, setting out the papers that had been provided for Members' consideration and the procedure that would be followed to hear the call in.

Committee heard from the three signatories to the call in, starting with Councillor Tricia Clough as the lead signatory, followed by Councillor Tom Kirkham and Councillor Anne Clarke.

Councillor Tricia Clough outlined her concerns regarding the timing of the decision, the validity of the valuation report, the consultation with ward Members, the holding of the informal Executive meeting that considered the matter, and the impact of the development and this decision on the community.

Councillor Clough stated that the announcement of the decision to sell the plot of land, to enable access to the housing development proposed on the adjoining land, had caused a lot of distress to local residents. During the coronavirus lockdown it had been particularly difficult as it had not been possible to meet with the public to

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discuss their concerns.

It was pointed out that the valuation report, provided with the background papers to the Committee stated that it only remained valid for 6 months. As it was dated August 2019, it was more than 6 months before the decision was made.

Councillor Clough also confirmed that neither she nor Councillor Tom Kirkham had received formal notification or consultation as Ward Members, in line with the requirements of the Council's Joint Disposals and Acquisitions Policy. She commented that it was possible that the third Member representing the Ward, Councillor Liz Smyth, may have been formally notified or consulted, however if she had been, this would have been unfair to have excluded the other two Ward Members.

Concern was expressed that the applicant for the housing development had stated in a brochure containing details of the proposal that the Council had agreed to the sale of land in October 2019. At that time Councillor Clough had contacted Grant Galloway, who was then the Head of Property and Commercial Services, and he confirmed that a formal decision had not been taken and that the matter would be reported to Executive for a decision if the applicant were to be successful in obtaining planning permission. In the same correspondence, the Head of Property and Commercial Services also confirmed that the proposal had been considered by the Council's Asset Management Group in August 2019.

Although Councillor Clough requested copies of correspondence with the applicant on this matter, she stated that she had never received this information.

Councillor Clough recalled a meeting of Glapwell Parish Council in February 2020 which took place at the suggestion of the Leader of Bolsover District Council, to discuss growth and regeneration issues in the District. This was held after the approval of the outline planning permission at the Planning Committee meeting on 12th February 2020. When this planning application was discussed, the Leader had advised the Parish Council that the applicant had submitted the application at their own risk, as a decision on the sale of the strip of land had not yet been taken. Councillor Clough stated that when asked whether the Parish Council could purchase the land, the Leader expressed that he could not see a reason why not.

Councillor Clough informed Committee that Glapwell Parish Council had submitted a nomination for the Park Avenue Woods to be listed as an Asset of Community Value.

The report accompanying the Delegated Decision referred to an informal meeting of Executive at which the proposed land sale was considered. Councillor Clough stated that she understood that no meetings were taking place at the Council due to the coronavirus lockdown. Having been previously advised that this matter would be submitted to Executive for a decision, Councillor Clough was therefore surprised to discover an informal meeting had taken place. She queried whether there was an agenda, minutes or a record of attendance and outcomes of this meeting other than the brief reference made in the report.

Regarding the loss of income that the Council had suffered during the coronavirus pandemic, Councillor Clough referred to a quote from the Chairman of the Local Government Association in a publication from June 2020. In the article, 'Leading the

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Way', the Chairman stated that the Government had promised that councils would get the resources they needed to cope with the pandemic and that the Treasury would compensate councils for lost income. Councillor Clough therefore considered that any justification for the need to sell this strip of land based on the Council's loss of income due to coronavirus should be dismissed. Instead the Council should be lobbying the Government to fulfil its commitments.

Turning to the development of the neighbouring land, Councillor Clough explained her view that Glapwell did not have the infrastructure to support the additional housing; the local schools did not have space for additional students and this was exacerbated by the need for social distancing due to coronavirus. She also explained that it had not been the experience in Glapwell that new housing brought about the emergence of new shops or facilities. The village was down to just one small shop/post office.

Councillor Clough concluded her statement by referring to the need for the Council to be open and transparent and that the Council listens to, provides for and protects everyone, especially the most vulnerable. She quoted Nelson Mandela, stating that the true measure of any society can be found in how it treats its most vulnerable. She stated that there were many vulnerable people on Park Avenue who need the Council's protection.

Councillor Tom Kirkham then presented further points arising from the call in, as the second signatory to the call in.

Councillor Kirkham commented on the informal meeting of the Executive that took place in April 2020 to consider the proposed land sale. He stated that this meeting took place in person and that the Director of Development met with the Executive Members in order to discuss this decision. Councillor Kirkham queried why this was considered necessary and why the decision was determined to be made under delegated authority. He commented that the individual decision of the Director rather than the matter being reported to Executive removed the matter from public scrutiny.

In relation to the timing of the decision, Councillor Kirkham stated that it would be unlikely that houses would be built during the pandemic and therefore there was no rush to progress the development. With no urgent need to make the decision at this time, Councillor Kirkham considered the use of the delegated authority under emergency powers was disproportionate.

With the formal notification of the decision being published on 7th May 2020, during the lockdown, it was not possible for local Members to meet with residents to discuss concerns, or for residents to meet amongst themselves to offer support and share information in relation to the sale. Councillor Kirkham emphasised that there had been no formal consultation with the local community, Ward Members or the Parish Council on the proposed sale, which he considered to be in breach of the Council's Joint Disposals and Acquisitions Policy.

Councillor Kirkham stated that other aspects of the Joint Disposals and Acquisitions Policy had also not been complied with. There was no evidence of any studies of previous land use. The requirement to conduct an independent valuation was instead done by a council officer. There was no opportunity for other people to buy the land as it was only offered to one person. The provision to demonstrate the land was surplus to requirements had not been complied with as the land was very valuable to

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the local community. There was no evidence to support the proposition that the land was surplus.

Councillor Kirkham also considered that the land value was likely to go up following the sale and there was no provision for clawback mentioned in the terms of the proposed sale.

Referring to the adoption of the Council's Local Plan in March 2020, Councillor Kirkham stated that this area of land was not included in the proposed sites for future development. Councillor Kirkham mentioned the comments made by the Deputy Leader, when taking part in the Planning Committee and supporting the application which went against officers' advice. The Deputy Leader had commented that the proposed development would be a good buffer against the failure for delivery of the plan. Councillor Kirkham queried why there was a rush to sell this land, when the targets in the Local Plan went as far as the 2030s.

Councillor Kirkham noted that another ransom strip of land within the District had been sold for a similar value where the land only enabled pedestrian access, whereas with this development, the Council's plot of land would be the only road access to the site. The proposed purchaser's interest in the land had gone back as far as 2017, however a formal approach to buy the land was not made until after the 2019 election.

Councillor Kirkham commented that following the 2019 election, the Leader, Deputy Leader and other Executive Members had been appointed to the Planning Committee and that Executive influence on Planning Committees was not common amongst UK local authorities. In Councillor Kirkham's view the overlap between Executive Members giving a view on the sale of the land, taking part in the Planning Committee decision, and Members of the Planning Committee sitting on the Growth Scrutiny Committee undermined the principles of transparency and openness. A number of residents had raised this as a concern. Councillor Kirkham also stated he had received a letter from the Deputy Leader, which excused himself from this Scrutiny meeting due to a conflict of interest.

It was stated that an open and transparent council was in the interests of the District as a whole and that this was a cornerstone of the Council's Constitution and part of the upcoming governance statement. However, Councillor Kirkham believed that this matter had been neither open nor transparent.

Councillor Kirkham concluded by summarising his view that the process for the disposal of the asset seemed to be against policy, the importance of this land to Glapwell had not been investigated as part of the sale, and that no consultation had taken place. He stated that the Council Leader was right to put community support at the centre of the coronavirus response, but he considered that this sale undermined this. In his view, enabling the sale during a national pandemic through delegated decision using emergency powers was not only disproportionate, but the meeting alone had the potential to bring 'Dominic Cummings level' shame upon the Council.

The decision had attracted much public interest, with over 1000 signatures to an online petition to stop it, which was on a par with the County petition to stop care home closures. The decision threatened to cause a permanent fracture between the Council and residents.

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On behalf of Councillor Tricia Clough, Councillor Anne Clarke and himself, Councillor Kirkham expressed thanks to the residents of Park Avenue and the surrounding area for their strength and perseverance and he requested that the officer reconsider the decision and not go ahead with the sale.

Councillor Anne Clarke was then invited to address the Committee as the third signatory to the call in.

Councillor Clarke informed Committee that she had been elected as a District Councillor on a platform of following the Nolan principles and it was on the basis of these principles that she supported the call in.

Councillor Clarke considered that the ransom strip was more than just a piece of land that lacked any value, and that it formed an important part of village life. It was a valuable amenity, and had been highlighted even more so during the current crisis. She stated that an application had been made to the Land Registry to register the ransom strip as a village green, as it was an area of open space which by immemorial custom had been used by the inhabitants of Glapwell for the purposes of playing lawful games and recreational pastimes there for a period of more than 20 years.

Addressing the issue of the environmental impact of the development of the adjoining land, Councillor Clarke stated that the ransom strip was home to bats and she detailed how the trees on the site, including bat boxes attached to them, provided a suitable habitat for them. She explained that criminal penalties applied to certain actions that disturbed bats or their roosts. She also queried whether a bat study had been done and what the findings were.

Councillor Clarke went on to describe the other wildlife the ransom strip was residence for including tawny owls, woodpeckers, brown hares, rabbits, grey squirrels, hedgehogs, foxes, rodents, butterflies and bees. She considered the land to be a haven of wildlife that must be preserved. It had given many people a lot of pleasure over the years and especially during the Covid-19 crisis. Councillor Clarke queried whether a wildlife impact survey had been conducted, and if so when and who conducted it and what were the findings, as the timing of the study could impact the findings due to seasonality.

Having liaised with RSPB and Derbyshire Wildlife Trust, Councillor Clarke stated that both had recommended that an ecological survey be completed on the ransom strip, however this had not been possible due to the Covid-19 lockdown and they suggested the decision should be postponed until it was possible to conduct a survey safely.

Councillor Clarke also informed Committee that an independent tree survey carried out on 2nd June 2020 was in conflict with the planning applicant's tree survey, as it identified a small area of mould on one tree which was easily treatable and would not warrant the destruction of an otherwise healthy tree.

Councillor Clarke outlined the local impact on health and psychological wellbeing from the use of the ransom strip. She stated that it was used all year from providing disabled parking for those attending local community events hosted at the site and it provided a safe environment for the local children to play.

She stated that the correlation between health and wellbeing and the environment and

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trees was well documented and she referred to the Council's latest In Touch publication in which the Leader discussed how the wellbeing of residents was a top priority. She also discussed the placement of refugee families in Glapwell and that Park Avenue provided a safe and secure environment for them.

Councillor Clarke concluded by listing benefits of trees and urban greening including: improving air quality; reducing stress; aiding recovery; alleviating depression; shading us from the sun; encouraging physical activity; saving lives; reducing obesity; bringing people together and strengthening communities, reducing loneliness and isolation. She called on the Committee to support the residents of Glapwell and vote against supporting the sale of the ransom strip.

At approximately 10:30 hours the live stream for the meeting was unexpectedly disconnected. The meeting was therefore immediately adjourned until this was resolved.

The live stream recommenced at 10:50 hours and the meeting was reconvened. At this point it was confirmed that no discussions on the call in had taken place without public access to the meeting. The signatories to the call in had concluded their presentations and there were no questions from Members.

The meeting proceeded to hear evidence from the Decision-Maker, Grant Galloway, Director of Development.

The Director stated that a lot of the matters that had been raised related to the planning development, for example, ecology concerns, and these would be addressed as part of that process, which he could not comment on.

The Director outlined the timeline and process that had been followed leading up to the decision to sell the land. The process had been running since 2017, with the last request to purchase the land being received in 2019. The Council was approached by the planning applicant and the Council did not actively seek interest in buying the land.

In order to deal with the request in a timely manner, officers had presented the proposal to the Council's Asset Management Group in August 2019. The group, which included representatives from legal, finance and property services, considered the request but agreed not to take the matter to Executive for consideration at that time as the proposed purchaser would be unlikely to purchase the land unless they had gained planning permission. The proposed purchaser had been written to, confirming this position, also stating that should he obtain planning permission they would reconsider the proposal and take this to Executive for a decision.

The proposed purchaser contacted the Council again on 28th Feb 2020 after gaining planning permission for the site, and requested that the land sale be progressed. The Director informed Committee that the proposed purchaser was advised that the option to sell the land would be presented for consideration at the next available opportunity. This would normally have been taken to an Executive meeting but due to the Covid-19 lockdown, this was not possible.

As there were no scheduled meetings of Executive and in order to progress the matter in a timely manner, the Director explained that the decision was determined to

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be taken under delegated authority. Notice of the decision was published on Issue 90 of the List of Key Decisions. Delegated powers to ensure that the operation of the Council could continue were used to enact this decision, with notice of the decision subsequently given to Members.

The Director stated that the use of the Council's Delegation Scheme was a fully transparent process, which was demonstrated by this call in meeting. It had been suggested that the decision had been made by a single person, however the Director commented that the delegation scheme did not allow one officer to act in isolation. The Asset Management Group and the majority of key Members supported the sale, although it was noted that the majority of Glapwell Members did not support the sale. The Council's Section 151 Officer and Monitoring Officer had been consulted and both had indicated that they had no issues.

Referring to the Joint Disposals and Acquisitions Policy, the Director stated that each land disposal was required to be treated on its own merits and nothing in the policy would bind the Council to a particular course of action. In the Director's view, the method of disposal was in line with the policy. In considering the disposal, consideration was given to the statutory and policy requirements, in particular the overriding duty on the Council under section 123 of the Local Government Act 1972 to obtain the best consideration that can be reasonably obtained for the disposal of land. The Director stated that it was the Council's Royal Institute of Chartered Surveyors (RICS) qualified Valuer's opinion that the sale value agreed with the proposed purchaser met the requirements set out in this provision.

When the Asset Management Group considered this proposed disposal of land, the Group considered that the land was surplus as it met the criteria as set out in the policy. It did not make any contribution to the delivery of the Council's services, strategic objectives nor did it generate any income. It was surplus to the Council's operational requirements. The Director also quoted the policy definition for under-utilised sites.

The Director informed Committee that in all circumstances, the evaluation of sites was undertaken by the Council's Valuer. This was carried out for this site in line with the policy. The Director referred to the policy requirements to obtain an independent valuation only in specific circumstances, which he believed did not apply to this site.

The Director moved on to discuss the method of disposal, which was a private sale as listed as an option in the policy. The policy stated that "the land may or may not have been marked as available for sale." The proposed purchaser had approached the Council to purchase the land which the Director advised was a general occurrence that was not infrequent. It occurred around 12 times per year across the District. So long as the agreed sale price was in line with the RICS valuation and deemed to be market value, which it was in this case, then the disposal was in line with the policy.

The Director commented that in Minutes of a Glapwell Parish Council meeting in 2017, it had been recorded that this strip of land was owned by the District Council. He stated that it was well publicised that the land was owned by the District Council, including through the planning application process and also noted at a meeting of Glapwell Parish Council on 18th October 2019. It was known that the land would be considered for sale if the proposed purchaser gained planning permission for the site.

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The Director reported to Committee that one other offer to purchase the land had been received from a resident of Park Avenue, for £3000. The Council's Valuer had valued the site at £240,500 in line with the rules of the RICS Global Standards 2017. He stated that the widely accepted +/-15% tolerance on valuations meant the acceptable valuation range for this site was between £205,000 and £276,000. The offer from the proposed purchaser was deemed in line with market value as it sat between this range. This therefore complied with the statutory duty under Section 123 of the Local Government Act 1972.

The Director commented that when making decisions to dispose of land, the Council looked at all available information, including information from planning applications, social media, policy, consultation of statutory officers and Members' views. All of these sources were reviewed and evaluated to determine the best interest for the District through selling the land at market value.

The Director addressed recent comments that the site had been used for disabled parking for an event. He stated that the Council had not been approached for permission to use the land for this or any other purpose. Had a request been received, the Council would have assessed the suitability of the land for the proposed usage and, if suitable, put in place a licence to occupy that would cover any liabilities arising from the usage, for the benefit of the organiser and the Council.

The Director advised that had a request been received, the Council probably would have refused this on safety grounds as the site was uneven, covered in roots, and with a danger of falling branches.

Regarding recent comments that the site had been used as public open space, the Director stated that the site had been visited and there were no signs that the area had been used by anyone. Having reviewed the objections to the planning application, the Director commented that he had seen no reference to use of the woods as public open space. It was therefore his opinion that the area was woodland and not public open space.

The Director stated he believed that the overall objective of the resistance to sell the land was to stop the housing development. He pointed out, as mentioned in one of the public comments, that the site could be accessed by an alternative means via land within the applicant's control. It was highly likely therefore that whether or not the Council sell the land, the development would still go ahead.

Commenting on the social and economic interests of the District as raised by the call in, the Director outlined the factors considered including the financial position of the Council and the income lost due to Covid-19 and the forecasted shortfall in future budgets due to government cuts. The income from New Homes Bonus was considered, as well as Council Tax from the additional housing and investment from the S106 contributions. The Director also stated that 10% affordable housing would be provided on the development, in line with policy, which would contribute to meeting the demand for social housing in Glapwell.

Members were then invited to put questions to the Director.

Councillor James Watson asked the Director about the informal meeting of Executive

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at which this proposed sale was considered, including who had attended the meeting and who had expressed support for the proposal. The Director confirmed that he had attended the meeting, which took place with social distancing and safety measures in place, and that the majority of Executive Members were present although he could not recall the full attendance and who was absent. The Director was asked if the matter was considered so important that a physical meeting was required for Executive to consider the matter. The Director advised that there were other matters on the agenda however as he was invited to attend the meeting, rather than the organiser, he could not comment further on it.

Councillor James Watson also queried the influence of Executive Members, and the Leader in particular, in this decision. He referred to an email that he had received from the Director of Corporate Resources & Head of Paid Service, in which the Director stated that matters dealt with under delegation would involve the relevant Member of the Executive in that decision process. Councillor Watson queried whether the Director of Development was simply carrying out the decision of the Leader. The Director explained that he made the decision himself, following consultation with Executive Members and other officers, to establish a consensus on what was right for this piece of land.

The Director was also asked whether he had obtained formal legal advice in advance of the decision to dispose of the land. The Director confirmed that the Asset Management Group had included legal officers, and their advice was considered at that time. Councillor Watson sought to establish whether the group had been requested to give a view on the option to sell only or also the method of disposal by private sale, and whether the legal advice specifically covered the disposal. The Director stated that the Council's Joint Disposals and Acquisitions Policy provided for advice to be given on proposed disposals of land by the Asset Management Group, comprised of relevant officers, so that decisions are not taken in isolation. He considered that due advice had been given and implemented and both the decision to dispose of the land and the method of disposal were in line with the policy.

It was confirmed that the Valuer's report took into account the alternative access to the development. The Director commented on the expertise of the Council's Valuer and that there was no reason to undermine his conclusions.

The Director was asked to comment on the valuation report having expired as it was more than 6 months old at the point that the decision to sell was made. He informed Committee that this had been discussed, however, on review of recent market conditions, it was concluded that the valuation could still be relied upon. The valuation still complied with RICS guidelines. The Director explained that a valuation was carried out in 2017 which produced a slightly lower valuation than the 2019 valuation due to market growth since that time, however very recently the market conditions, including a drop in house prices, would have likely led to a drop in the valuation.

In relation to consultation, the Director was asked when notification was given to local Ward Members as Councillor Clough commented that she had not received anything following the request to purchase the site in February 2020. The Director stated that requirement of the policy was to ensure Members were made aware of the possibility of the land being disposed and that Councillor Clough was aware of this in October 2019 through correspondence he had held with her. It was also recorded in many

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places that Members and the Parish Council were aware of the possible sale of the land. He considered that no further notification was required after the request from the proposed purchaser in February 2020 as it had previously been made clear that the sale would be recommended should the applicant be successful in obtaining planning permission.

Councillor Tom Kirkham asked whether the impact on the community of the announcement of the decision to sell this strip of land, during the coronavirus lock down, had been considered. The Director stated that he did not believe that this was discussed at the informal Executive meeting and had not been a factor in the decision, which was also because it was not public open space. He believed nothing would be happening with the site for a further 12-18 months as the applicant still needed to obtain full planning permission following the granting of the outline permission.

Councillor Tricia Clough queried whether the Council was required to consult the public on the proposed disposal of land under the Localism Act 2011. The Director confirmed this was not a requirement of the Joint Disposals and Acquisitions Policy. The Head of Corporate Governance and Monitoring Officer when asked to comment, advised that policies and legal requirements were kept under review and this would be reviewed if required.

Councillor Tricia Clough also asked that the Director look further into the matter of whether the community events had permission to use the land as the Council's former Leader had attended several of these events. She also noted that the Parish Council and the event organiser had carried out health and safety assessments.

Councillor James Watson referred the Director to his comments that the land was surplus as it did not further the Council's strategic objectives, and asked whether health and wellbeing was not a strategic objective of the Council. The Director stated that the Council did give due regard to the health and wellbeing of communities in the District, however in his view, this strip of land was woodland and not public open space, and therefore did not advance this objective.

Councillor Tom Munro asked the Director for his view, should the decision be referred back for him to reconsider, on the possibility of approaching the developer to consider alternative access to the site on which he had gained planning permission. The Director confirmed he would be willing to have this conversation.

This concluded the presentation of the call in and the response from the Director.

The Scrutiny and Elections Officer summarised the range of evidence and issues that had been addressed and advised Members that they now needed to consider based on what they had heard, whether the decision had been made in line with the decision-making principles or not. If they considered that it was not in line, detailed reasons would be required in order to present these concerns to the Director with the request for the decision to be reconsidered. Members were reminded that at the conclusion of the debate, the Director and the lead signatory, Councillor Tricia Clough, would have rights of reply before the vote was taken.

Members were also advised that the petition referred to in the papers was not treated as a formal petition as it had not been formally submitted and verified. There were

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also a number of public comments that had been received and were produced in the background papers for Members.

The Chair opened the matter for debate.

Councillor Tom Kirkham expressed concerns about openness and transparency and the lack of consultation on the decision to sell. He had issues with how the land valuation had been carried out due to the last visit to the site being in 2017. He also wished to see consideration for clawback provisions within any sale contract if agreed.

Councillor Jim Clifton sought clarification if Members had been informed of the proposed disposal prior to the Asset Management Group meeting in August 2019 which was required by the policy and he considered to be critical. The Director stated that this requirement related to site investigations and was intended to ensure local Members were aware of any investigations due to take place. As there were no investigations this section was not engaged, however the Director stressed there was no secrecy in the matter and Members were made aware of the proposal at various times.

Councillor Tom Kirkham moved that the decision be referred back to the decision-maker, the Director of Development, on the following grounds:

1. The timing of this decision is called into question as there was no urgent need to make the decision and no urgent need to use delegated powers to do so.
2. Considering the impact on the local community of the decision to sell the land, the decision was not proportionate to what would be achieved by the sale.
3. The way in which the decision was taken was not fully open and transparent and further consultation should have taken place with Ward Members and the public.
4. The Director of Development is requested to seek further legal advice on the issue of whether the land is open space and to clarify the appropriate method of disposal, in line with the Council's Joint Disposals and Acquisitions Policy.

Councillor James Watson, in seconding the motion, expressed his view that there had been enormous confusion over the decision-making process and supported the proposition that formal legal advice on the nature of the land as public open space was needed.

Councillor Tom Munro stated that he supported the motion, having received confirmation that some consideration would be given to discussing alternative access to the land with the developer. He also commented that serious consideration needed to be given to the correspondence from residents, in particular a petition with excess of 1000 signatories, although it was noted that this number had not been verified.

Councillor Graham Parkin queried whether the use of the land amounted to a public right of way. Councillor Tom Munro, having researched the site on the Derbyshire Portal, confirmed that no right of way was shown on the site.

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Councillor David Dixon commented that local residents seemed to have been by-passed and agreed that the process needed to be looked at again.

As this concluded the debate, the Chair invited the Director of Development and Councillor Tricia Clough, as the lead signatory to the call in, to exercise their rights of reply.

The Director of Development reiterated that the sale of the land was in line with the Council's policy and the price had been assessed as market value in line with the Council's overriding duty under Section 123 of the Local Government Act 1972 to obtain best consideration reasonably obtained through land disposals. Views of all parties, both for and against, had been taken into consideration to determine the best interests for the District through the sale of the land at market value. He stated that the decision process had not been rushed, notification had been given on the Member's portal, and the delegated decision making powers were there to ensure that the decision could be enacted. It was subsequently sent to Members with the opportunity for them to review the process. He therefore considered the process to be fully transparent.

Councillor Tricia Clough concluded her submissions to Committee by repeating that it was important for the Council to be open and transparent and that she considered it to be clear that the policy had not been complied with. She commented as an example of this, that no formal or informal consultation had taken place with her or Councillor Tom Kirkham following receipt of the request for the Council to sell the land in February 2020.

Councillor Clough thanked residents of Glapwell and, in particular, Park Avenue, who she had met with, following social distancing in an open space. She quoted the CLES, the National Organisation For Local Economies, stating that "we must reform our economy to one which tackles the climate emergency and social injustice." She considered that the proposed development and land sale would lead to the taking down of some trees which were healthy and would also build social injustice to all Glapwell residents and across the District. She stated that the Glapwell Carnival would have to cease if the sale went ahead.

Before moving to the vote, the Senior Governance Officer restated the motion as put by Councillor Tom Kirkham.

Moved by Councillor Tom Kirkham and seconded by Councillor James Watson

RESOLVED - That Growth Scrutiny Committee refer the decision (DD/025/20/DC) back to the Director of Development to request that it be reconsidered, due to the following concerns:

1. The timing of this decision is called into question as there was no urgent need to make the decision and no urgent need to use delegated powers to do so.
2. Considering the impact on the local community of the decision to sell the land, the decision was not proportionate to what would be achieved by the sale.
3. The way in which the decision was taken was not fully open and transparent

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and further consultation should have taken place with Ward Members and the public.

4. The Director of Development is requested to seek further legal advice on the issue of whether the land is open space and to clarify the appropriate method of disposal, in line with the Council's Joint Disposals and Acquisitions Policy.

The Senior Governance Officer informed Committee that the resolution would be provided to the Director in writing with the request that he review the decision. There was no specific timeframe within which he must make the final decision. He was entitled to take any further action he considered necessary before reaching a final decision, either the same decision or a different one. The final decision would be published and circulated to all Members.

The Chair thanked everyone for attending and closed the meeting.

The meeting concluded at 12:03 hours.