

Bolsover District Council
Growth Scrutiny Committee

10th June 2020

Call In of Decision DD/025/20/DC – Sale of Land at Glapwell
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Report of the Scrutiny & Elections Officer

This report is public.

Purpose of the Report

- To consider a Call In relating to the proposed sale of land on Park Avenue, Glapwell.

1 Report Details

- 1.1 The sale of a parcel of land is recommended to facilitate vehicular access as part of a new residential development scheme. In order to commence development of the scheme on land to the East of Park Avenue in Glapwell, approval is sought for the disposal of the Council owned ransom strip.
- 1.2 At an informal meeting of Executive on 21st April, Members considered a report relating to the sale of land on Park Avenue, Glapwell. This report was to consult Executive as the decision was due to be taken under delegated power by the Director of Development. It is noted that Members supported the proposal and advised Officers as such, but did not take a formal decision as Executive.
- 1.3 Subsequently, on the 7th May, the Director of Development resolved via delegated decision, in line with Members considerations and Officer recommendations:
- To dispose of the parcel of land, shown edged in red on the attached plan, on Park Avenue, Glapwell on the terms as set out in the report.
- 1.4 The decision was published on 7th May 2020 and Members were informed that they had until the end of 15th May 2020 to call the decision in. A valid Call In of the decision by Councillors P. Clough; T. Kirkham and A. Clarke, was received on 15th May 2020.
- 1.5 The decision was called in based on the following decision-making principles (See Appendix 1 for further detail):
- Proportionality - The controversial sale of the land (to a local developer) is rushed.

- Due consultation and the taking of professional advice from officers - Consultation has been minimal and range of advice limited.
 - Respect for human rights - Resident needs and the use of the land has not been taken into account.
 - A presumption in favour of openness - The decision to sell to one party is not transparent.
 - Clarity of aims and desired outcomes - Lack of clarity risks 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 is not justified.
 - Consideration of all relevant factors - The sale will increase pressure on village which is recognised by officers as at capacity.
 - Decision is in the best interests of the District as a whole - The sale is not in the social and economic interests of the District.
- 1.6 In line with the Council's Constitution, the Portfolio Holder for Housing and Community Safety, the Leader and the Deputy Leader were all invited to attend the Call In, but have declined at the Director of Development is attending as the decision-maker.
- 1.7 Members of the Committee are reminded that some of the supporting detail in relation to the Delegated Decision is restricted by virtue of paragraph 3, Part 1 of Schedule 12A of the Local Government Act 1972. As this meeting is open to the public to observe, Members must not make reference to these details and instead to refer to the 'proposed purchaser' and the 'agreed valuation amount' during committee deliberations. Failure to adhere to this would be a breach of the Members Code of Conduct.
- 1.8 Attached to this report for Members consideration is the Call In submission, the Delegated Decision and supporting paperwork previously circulated, submissions from other Members, and submissions from local residents.
- 1.9 Furthermore, Members are also able to view the details of the residential scheme referred to as part of this delegated decision – both the minutes of Planning Committee and the outline of the scheme and engineers report.
- 1.10 Members are reminded that this decision on the proposed sale of land is taken in the authority's capacity as a landowner. This is a separate decision to that taken by Planning Committee performing the Council's role as the planning authority. As such there is no conflict of interest for Members reviewing or being consulted on the land sale decision if they were also on Planning Committee.
- 1.11 The process for considering the Call In is set out below:
- (a) Lead signatory submission – The lead signatory to the Call In will be invited to address the Scrutiny Committee and make a statement of explanation in respect of the decision called-in. They should aim to explain how the decision is in breach of the decision-making principles. The address should be limited to 20 minutes. The lead signatory may share the 20 minutes with other signatories. The Scrutiny Committee may ask questions of the lead

signatory. The three signatories to the Call In are asked to set out their reasons for calling in the item.

- (b) Portfolio Holder/Decision-Maker submission – The lead Portfolio Holder (or the Decision-maker if a delegated decision) will be invited to address the Scrutiny Committee. Relevant officers can be called upon to support the submission. The address should be limited to 20 minutes and should address the reasons given by the lead signatory for the call-in. They should also aim to explain why the decision has not breached the principles of decision-making. The Scrutiny Committee may ask questions of the portfolio-holder/decision-maker.
- (c) Scrutiny Committee deliberations – The Scrutiny Committee needs to make a decision based on the discussion that has taken place. The Chair should make it clear that no submissions from the Portfolio Holder/Decision-Maker or lead signatory (or any other signatory if they have already spoken) will be heard whilst the Committee deliberates. The Call In signatories, Portfolio Holder and Officers may remain in the room while this happens.
- (d) Right of Reply – The Portfolio Holder/Decision-Maker followed by the lead signatory may exercise a right of reply responding to the submissions and questions previously heard. No questions may be asked after the Rights of Reply. Closing statements should last no longer than 5 minutes.
- (e) Scrutiny Committee decision – The Scrutiny Committee may decide to:
 - Take no further action.
 - Refer the matter back to Executive or to the Decision Maker for delegated decisions, setting out the reasons for its concerns.

All Members of the Scrutiny Committee designated to hear the Call In may participate in the vote, including any signatories to the Call In.

- 1.12 If the Committee decides on the evidence considered to take no further action and endorses the decision by the Director of Development then the decision may be implemented immediately after this meeting.
- 1.13 If the Committee decides to refer the matter back to the Decision-Maker (in this case the Director of Development) then it will be reconsidered by them subsequent to the Scrutiny Committee meeting. Having reconsidered the original decision, the Director may decide to affirm their original decision or to take a different decision.
- 1.14 The Committee may not refer the matter to Council unless, supported with reasons and evidence and advice from the 3 statutory officers, it is deemed to be contrary to or not wholly in accordance with the Budget & Policy Framework. The Executive must be involved in the process before Council considers the matter. This is a different procedure to the Call In and has not been raised in the reasons for this Call In.

2 Conclusions and Reasons for Recommendation

- 2.1 The background detail in this report is to enable the Committee to consider a Call In requested by three Scrutiny members.

- 2.2 Based on the detail contained in the Call In submission and the concerns highlighted the Committee have two options available to them, as outlined in 1.12-1.13 of this report.

3 Consultation and Equality Impact

- 3.1 The report supporting DD/025/20/DC states that there are no equality implications arising directly from this decision.
- 3.2 As part of the delegated decision process, the decision-maker was required to consult the S151 Officer and the Monitoring Officer and the Leader, Deputy Leader and Portfolio Holder. Executive were consulted at an informal meeting.

4 Alternative Options and Reasons for Rejection

- 4.1 This report sets out the options and it is for the Committee to decide, by a positive resolution, which option to choose.

5 Implications

5.1 Finance and Risk Implications

- 5.1.1 There is a capital receipt to the Council as a result of the land disposal. Costs associated with the transfer will be met by the purchaser.

5.2 Legal Implications including Data Protection

- 5.2.1 The transaction will be handled by the Council's legal department on behalf of Property and Commercial Services and Housing.

5.3 Human Resources Implications

- 5.3.1 The sale of land will result in no direct HR implications.

6 Recommendations

- 6.1 There are no Officer recommendations in respect of this report, the Committee are advised to draw their conclusions from the evidence presented and then vote on the course of action to be taken in relation to the delegated decision as outlined in 6.2.
- 6.2 Based on the issues raised in the Call In, the evidence presented and Member considerations, the Committee must choose between the two following options, in line with the Scrutiny Procedure Rules outlined at 4.5.14 (11) and (12):
- (a) To take no further action and endorse the decision taken by the Director of Development. The decision may be implemented immediately after this meeting.

Or

- (b) To refer the matter back to the Director of Development for reconsideration. The Committee should state its concerns and reasons for referring back. The decision may not be implemented until the matter has been reconsidered.

7 Decision Information

<p>Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: <i>BDC: Revenue - £75,000</i> <input type="checkbox"/> <i>Capital - £150,000</i> <input checked="" type="checkbox"/> <i>NEDDC: Revenue - £100,000</i> <input type="checkbox"/> <i>Capital - £250,000</i> <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i></p>	<p>Yes – the decision taken by the Director of Development was a key decision.</p>
<p>Is the decision subject to Call In? (Only Key Decisions are subject to Call-In)</p>	<p>Yes – this is the Call In</p>
<p>Has the relevant Portfolio Holder been informed</p>	<p>Yes</p>
<p>District Wards Affected</p>	<p>Ault Hucknall</p>
<p>Links to Corporate Plan priorities or Policy Framework</p>	<p>Aim: Economy Priority: Enabling Housing Growth: increasing the supply, quality and range of housing to meet the needs of the growing population and support economic growth</p>

8 Document Information

Appendix No	Title
1	Call In Notice
2	Delegated Decision DD/025/20/DC
3	Delegated Decision DD/025/20/DC - Appendix
4	Delegated Decision Appendix – Report (Exempt)
5	Call In Procedure
6	Additional Member submissions
7	Resident submissions
<p>Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)</p>	
<p>Background paper 1: Draft Minutes of Planning Committee, 12th February 2020</p>	
<p>Background paper 2: Indicative layout for proposed development</p>	

Background paper 3: Site Access Technical Note for proposed development	
Background paper 4: Officer Valuation Report 2019 (Exempt)	
Background paper 5: Joint Disposals & Acquisitions Policy, March 2017	
Covering Report Author	Contact Number
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