



ADUR & WORTHING
COUNCILS

Joint Overview and Scrutiny Committee
Date 21st November 2019
Agenda Item 6

Key Decision : No

Ward(s) Affected:

Request for Call-In of an Executive Decision

Report by the Monitoring Officer

Executive Summary

1. Purpose

- 1.1 The Council's Joint Overview and Scrutiny Procedure Rules provide that where the Monitoring Officer receives a request to call-in a decision of the Executives, and rejects that request, they must report to the Joint Overview and Scrutiny Committee with details of the request and reasons for the rejection.

2. Recommendations

- 2.1 The Joint Overview and Scrutiny Committee is recommended to note the contents of this report.

3. Context

- 3.1 Part 1A Local Government Act 2000 sets out the arrangements in respect of Local Authority Governance in England. Where an authority is exercising Executive arrangements, it is required to have an Overview and Scrutiny Committee. Section 9F of the Act sets out the functions of an

overview and scrutiny committee which includes “to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the Executive” and “to make reports or recommendations to the Authority or the Executive with respect to the discharge of any functions which are the responsibility of the Executive”.

3.2 It is prudent for a Local Authority to have locally adopted procedures to enable the JOSc to implement this scrutiny function. In this regard Adur and Worthing Councils have adopted Joint Overview and Scrutiny Procedure Rules.

3.3 At paragraph 17 of the Procedure Rules, call-in of decisions is dealt with and the rules provide that at least three Members must request a call-in and that the grounds for a decision being called in are:

- If it conflicts with Council Policy
- If it conflicts with the Council’s Budget Strategy, or
- Where there is evidence to suggest the principles of decision-making have not been complied with.

4. Background

4.1 On 9th October 2019 the Head of Major Projects and Investment made an Officer Executive decision, reference number HMP&I/009/19-20, relating to the disposal of land at West Buildings Shelter. The decision was published on the Councils’ website and the call-in deadline was 5pm on 16th October 2019.

4.2 On 16th October 2019, within the prescribed deadline, the Monitoring Officer received a request, in writing, for call-in of the decision from at least three Elected Members: Cllrs Cooper, Chowdhury, Howard and Dawn Smith.

4.3 In summary, the reasons for the request for call-in were that the decision was in conflict with the Council’s Budget Strategy.

4.4 Members requesting the call-in of the decision in summary alleged that the Head of Major Projects and Investment’s decision notice states that the Council was unable to demonstrate that the decision to dispose of West Buildings Shelter in these circumstances, represented the best value for the Council. Members referred to the proposed reduction of 75% to the premium, a 5% reduction in the rent payable, and a 200 year lease with no rent review clauses proposed.

5. Issues for consideration

- 5.1 The Monitoring Officer considered the request for call-in and determined that the ground, of failure to comply with the Council's Budget Strategy, was not made out.
- 5.2 The Monitoring Officer noted that despite the information published in the decision notice, in fact the agreement was for a £25,000 premium, 5% of the passing rent which currently amounts to £6,500 pa, and rent reviewable every 10 years; but it was clear that such evidence was, in error, not included within the decision notice.
- 5.3 The Monitoring Officer further noted that the decision notice stated that suitable professional advice had been received from SHW, who advise the proposal is justified in that it supports the Council's objectives of improving the seafront and the town generally and indeed the decision notice refers to detailed reasons as to why the proposal meets the Council's policies and strategies and is in accordance with the Council's overall objectives.
- 5.4 The Monitoring Officer reviewed the Council's 19/20 Budget Strategy which was adopted by Worthing Borough Council in 2018 and noted the following extracts:
- Paragraph 10.2 refers to the Council's aim to be self-sufficient by 20/21 and reliant only on income from fees and charges, commercial rents, Council Tax and Business Rates, and further refers to the Council seeking to increase income from Business Rates and Council Tax by facilitating the creation of ... employment space.

The report to JSC of 10th July 2018 (item 8 on the agenda) refers to:

- The 19/20 Budget Strategy being built on the aim of ensuring the Councils would become community funded by 2020 and reliant only on income from trading and commercial activities, Council Tax and Business Rates.
- The Councils having set up several strategic programmes which are responsible for taking forward key initiatives aimed at delivering new income e.g. major projects programme to deliver regeneration projects to increase employment space and the commercial programme to develop initiatives to promote income growth from commercial services.

This decision relates to a Council owned asset which currently generates no income, has no commercial activity and generates no employment space, nor any business rates. A restaurant would generate employment, and the premium and annual rent received by the Council amounts to new income

generated. Both of these outcomes appear to support the Council's Budget Strategy.

- 5.5 On that basis the Monitoring Officer considered that whilst it is unusual to dispose of a Council asset when there is no assurance that it generates financial best value to the Council, the proposal and decision of the Head of Major Projects and Investment does not appear to be in conflict with the Council's Budget Strategy.
- 5.6 The request for call-in of the decision was therefore rejected.

6.0 Engagement and Communication

6.1 The Council's Monitoring Officer contacted the Joint Chairmen of the Councils' Joint Overview and Scrutiny Committee by telephone on 18th October 2019 by way of consultation, as to the determination of the request for call-in of the decision. Both Cllr Barraclough and Cllr Chipp responded that they did not consider there were sufficient grounds for accepting the request for call-in.

7.0 Financial Implications

- 7.1 There are no financial implications arising from this report

8.0 Legal Implications

- 8.1 Legal issues are addressed in the main body of the report above.

Background Papers

- Decision Notice reference number HMP&I/009/19-20, relating to the disposal of land at West Buildings Shelter.
- Worthing Borough Council Constitution

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Sustainability & Risk Assessment

1. Economic

Matter considered and no issues identified.

2. Social

2.1 Social Value

Matter considered and no issues identified.

2.2 Equality Issues

Matter considered and no issues identified.

2.3 Community Safety Issues (Section 17)

Matter considered and no issues identified.

2.4 Human Rights Issues

Matter considered and no issues identified.

3. Environmental

Matter considered and no issues identified.

4. Governance

Governance issues have been addressed in the body of the report.