

Evidence statement from the Monitoring Officer to the Babergh Overview and Scrutiny Committee

Re: Call-in of the Cabinet's decision regarding the Regeneration of the Belle Vue site in Sudbury

Date of Committee: 22 March 2021

Date of Cabinet Decision: 11 March 2021

1. Ability of the Cabinet to take the decision in respect of the Belle Vue site.

As part of the call-in process, the Monitoring Officer is required to advise the Overview and Scrutiny (O&S) Committee as to whether the decision that has been taken by the Cabinet is consistent with the agreed policy framework and budget of the Council. Firstly, it is important to confirm that a decision to consider disposal of a site following a notice under s.123 Local Government Act 1972, and to agree the sale of the site to a bidder for best consideration, is an Executive function as defined by The Local Authorities (Functions and Responsibilities) (England) Regulations 2000. Therefore, the Cabinet has acted within the powers afforded to it by legislation and confirmed by the Council's constitution.

The Monitoring Officer is satisfied that the decision is consistent with a number of the Council's major policies, including the recently adopted Strategic Assets Management Plan, and the agreed budget.

The Committee is also asked to note that comprehensive legal advice was sought by the Assistant Director for Economic Development and Regeneration from both external sector experts and the inhouse legal team. This advice covered the process for the s.123 notice and consideration of objections and the mechanism for evaluating the bids for the site.

2. Monitoring Officer Response to the grounds for call-in.

a) Consideration of the Options

The call-in contends that insufficient consideration was given to each of the bids as only bids B and F were discussed by Cabinet Members. During the meeting the Monitoring Officer advised the Cabinet that its role was not to evaluate each of the bids. The Cabinet was required to consider whether due process had been followed in undertaking the evaluation and then consider whether or not it agreed with the recommended bid (B). Therefore, there was no procedural requirement for the Cabinet to mention each of the bids individually during its debate.

b) Presumption of openness

The call-in suggests that the scoring matrix should have been included in the open part of the report in order to satisfy the presumption of openness in the decision-making process. It would be highly irregular to publish the scoring matrix for competitive bids or tenders. Not only would this potentially compromise the commercial interests of the bidders but would also prejudice the ability of the unsuccessful bidders to challenge the process. The Monitoring Officer would not support the publication of the scoring matrix in the open part of the report.

In all other respects, the Cabinet has taken every effort to ensure as much of the report as possible was made public and that a large section of the debate was undertaken in the open part of the meeting. Therefore, the Monitoring Officer is satisfied that there was a presumption of openness.

c) Lack of Clarity

The call-in contends that there was a lack of clarity about the definition of open space and the 'red line' defining the area of the site that had been marketed. The Monitoring Officer is satisfied that there was sufficient definition of open space, as set out in paragraph 4.13 of the Cabinet Report, and that the plan of the site (appendix A to the Cabinet report) was absolutely clear. The latter point was also subject of a specific point of clarification during the Cabinet debate, to which officers provided answers.