
Meeting	Corporate and Scrutiny Management Policy and Scrutiny Committee (Calling In)
Date	6 March 2017
Present	Councillors Williams (Chair), Galvin (Vice-Chair), Crisp, D'Agorne, Fenton, Gates, Levene, Reid and Dew (Substitute - Conservative Vacancy)

17. Declarations of Interest

Members were asked to declare any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests which they might have in respect of business on the agenda. None were declared.

18. Public Participation

It was reported that there had been no registrations to speak at the meeting under the Council's Public Participation Scheme.

19. Called-In Item: Disposal of Land to English Heritage for a Clifford's Tower Visitor Centre

Members considered a report which set out the reasons for the call-in and the role of the Committee, together with options available to it under the agreed post-decision call-in arrangements. A briefing note giving further background on the legalities relating to the land disposal associated with the construction of a new visitor centre at Clifford's Tower, was tabled at the meeting, for Members' information.

In accordance with those arrangements, four Members (Councillors Flinders, Craghill, Hayes and Warters) had called in the above Executive decision for the following reasons:

- This land will be used as the site for the proposed English Heritage Clifford's Tower visitor centre to be built into the motte.
- We believe the decision to sell the land needs further scrutiny.

- There has been a very high level of public opposition to the Clifford's Tower visitor centre. In particular there have been major concerns about the site itself, as evidenced by the 3780 signatories to a petition protesting this proposal and the choice of site in the motte.
- This petition was presented at the last Full Council Meeting in December and York MP Rachel Maskell presented a copy of the same petition at the English Heritage head office in London.
- There have been public demonstrations with over 100 people attending, along with extensive media coverage.
- There has also been considerable opposition from heritage organisations, evidenced by all of the six main amenity groups objecting during the planning process.
- Additionally, the planning process itself is subject to a Judicial Review in the High Court. This decision is regarded by City of York Council and English Heritage to be of regional or national significance and will be heard by a senior Judge.
- The English Heritage consultation prior to planning was essentially only a one day event held in a hotel with approximately 150 people attending both. There were some features in the local press and radio about these events with photographs of the plans. The consultation in our view was not widespread considering the importance of Clifford's Tower to York. Following the consultation there were a large number (80) of comment letters / feedback forms. This feedback has only recently come to light, since the planning decision was made. Of the 80 forms the majority had very strong objections to the siting of the visitor centre within the motte. The response to this feedback had very little impact on the design of the building and did not alter the siting in the motte.
- The fact that only a small number of planning objections were made in no way reflects levels of public concern. It is as a result of the widespread concerns about the site itself (that belongs to City of York Council) that we would like the decision calling in for scrutiny.
- The Castle Gateway Report offers a long awaited, comprehensive redevelopment proposal for the whole area surrounding Clifford's Tower and any piecemeal land disposal/land redevelopment has the potential to compromise the connectivity of these proposals.
- The scope for incorporating a Clifford's Tower visitor centre as part of the wider Castle Gateway proposal

certainly exists and renders the Executive's land sale decision premature and requiring further scrutiny.

- The Local Government Act 1972 Section 123 states that Open Land cannot be sold without the permission of residents. It was stated at the Executive meeting that this land is not Open Land. Yet the Union Terrace car park was subject to process of consultation in September 2011 following a large petition. Then residents decided that they did not want to sell this land and the sale did not go ahead. We believe that York residents should have a similar opportunity to consider this decision to sell this very important piece of land, including parts of Clifford's Tower motte itself. Agreeing to sell this land without this opportunity for residents to be consulted needs further scrutiny in our view.
- Finally, the price that was agreed for the sale of this land is only £25,000. We would like this valuation to be scrutinised. The Local Government Act 1972 specifies that the best price should be obtained for the sale of publicly owned land. This sale price and additional rental terms that were agreed in principle should, we believe, receive further scrutiny.

Councillor Hayes spoke, on behalf of the calling-in members, to state that Section 123 of the Local Government Act 1972 should be enacted as the land being disposed of was open land. He also suggested that proper consultation had not been carried out and urged the Committee to refer the matter back to the Executive to ensure that consultation and due process be carried out.

The Executive Member for Finance & Performance (Leader) spoke in response to points made by the call-in Member. He stated that the planning permission granted was valid and legal and that the changes to Clifford's Tower would encourage investment and make the site accessible to all. He also clarified that when the Local Plan Survey referred to 'open space' it was guidance and did not confer any legal status.

In response to comments made by the calling-in Member, Officers stated that the land did not meet the criteria to be considered 'open space' under the Local Government Act 1972. After questions from Members they clarified that this was a long lease for 125 years, rather than a sale, but still classified as a

'disposal of land'. They also stated that, given the nature of the space, there was very limited potential for alternative use.

Members then debated the 'call-in' fully and considered the options outlined in the report, namely whether to make any formal comments to the Executive or not. In arriving at their decision, Members did feel that, whilst not a requirement, some form of public consultation might have been worthwhile and good practice given the significance of the site.

Resolved: That the original Executive decision not be referred back in this instance for further consideration on the basis that there were no specific grounds which warranted re-consideration in the opinion of this Committee

Reason: To enable the called-in matter to be dealt with efficiently and in accordance with the requirements of the Council's Constitution.

Cllr D Williams, Chair

[The meeting started at 5.30 pm and finished at 6.20 pm].