PLACES AND FUTURES OVERVIEW AND SCRUTINY COMMITTEE

At a meeting held on Wednesday, 31st August, 2022
Present:-
Councillor G Coulson (Chairman) in the Chair;
Councillors E Broadbent, M J Cockerill, P Riley, G W L Smith, M Stonehouse and Ms R Swiers

1. DECLARATIONS OF INTEREST

Cllr Riley declared a personal non-prejudicial interest in item 4 as the YCBID Company had provided support to the Filey Bay 1779 Research Group Ltd, a Community Interest Company. The Cllr was a Member of the Filey Bay 1779 Working Group that shares the Company's objectives.

Cllr Riley also declared a personal and non-prejudicial interest in the meeting at item 5 (Work Programme) as secretary of Scarborough Civic Society regarding the Land disposal, former sports centre Filey Road, Scarborough.

2. PUBLIC QUESTION TIME

There were no public questions received.

3. MINUTES

RESOLVED: that the minutes of the meeting held on 15th June, 2022 be approved as a correct record and signed by the Chairman.

4. YCBID UPDATE

The Chair introduced the item and informed the Committee that the YCBID Company's Chief Executive and Chairman had declined an invitation to attend the meeting following a vote of no confidence by the Council in the company's governance arrangements and representation of local businesses on the board. The Director (NE) added that following a conversation with the YCBID Chairman, the YCBID believed it would be inappropriate to attend Committee at this time but were committed to provide a good service to their levy-payers.

Cllr Cockerill commented his disapproval in how the YCBID Company had acted.

Cllr Riley agreed that it would have been inappropriate for the YCBID to attend due to the circumstances. However he argued that the vote of no confidence limited the Council's ability to manage its relationship with the company such as using its position to recommend a measure to hold an annual meeting of the company and its members. He noted no such meetings had yet occurred. The Member further commented on the following aspects: that the YCBID had failed to respond to enquires of its levy-payers; that there had been no membership applications to its board of directors; that initial delays in the collection of the levy had subsequently led to circa £1m surplus and that the resulting departure from its business plan should have been communicated to levy-payers; and that the performance and progress of projects such as Route YC was not available on its site. The Member felt that a letter to the YCBID should be written that communicates the above points and encourages the company to hold an Annual General Meeting with its members. These meetings would offer members the opportunity to pass resolutions on its finances, projects, and future. The Member felt that if a satisfactory response was not received then the

matter should be referred to the Department for Levelling Up, Housing and Communities.

Members agreed that the Chair of the Committee write to the YCBID Company a letter articulating the concerns outlined above.

RESOLVED: That the Chair of the Places and Futures Overview and Scrutiny Committee writes a letter to the YCBID Company communicating its concerns regarding the company's operations.

5. PLACES AND FUTURES O&S COMMITTEE - WORK PROGRAMME

Cllr Riley suggested to the Committee that the item Land Disposal: Former Sports Centre, Filey Road, Scarborough currently on the Forward Plan be considered for pre-decision scrutiny so that Members were informed on how the site had been advertised for sale. He noted the site was of historical importance regarding its tennis legacy and thought that due to the heritage of the building and its location within an attractive area it would be useful for Members to review the plan.

Cllr Smith raised a query regarding the Peasholm Park tree walk area as it featured on the work programme as to be allocated. The Assistant Democratic Services Officer replied that he would liaise with Officers on both suggestions to determine whether they could be brought to Committee.

The Monitoring Officer (MO) made Members aware that Local Government Reorganisation brought with it a prioritisation of resources that meant workload pressures would prevent some projects from being taken forward. She also commented on staffing issues.

Other Members supported the suggestions made and agreed that Members should focus on a work programme that was practicable over the remaining 3 meetings.

RESOLVED: that the work programme, as presented, be approved subject to the following changes:- requests for the addition of items, Land Disposal: Former Sports Centre, Filey Road, Scarborough, and Peasholm Park Tree Walk be considered by Officers, and that the Chair of Committee be provided with a response to these requests in due course.post-meeting.

6. EXCLUSION OF THE PUBLIC

The Chair explained to Committee that the meeting would continue in public unless Members wished to include information found in the confidential Appendix at which point Members would vote on entering private session. The MO advised members that confidential material related to the commercial and legal aspects of the deal. In the event, the committee entered into private session on two occasions. This additional discussion is recorded in the extended restricted minute.

7. CALL-IN - CABINET DECISION - LAND DISPOSAL OF FORMER INDOOR SWIMMING POOL SITE (REFERENCE 22/180)

The Chair introduced the item and invited Cllr Phillips, a co-signatory of the call-in, to speak. Cllr Phillips explained to Committee the reasons behind bringing the Call-In to Committee. She stated that she accepted the Council's disposal of assets was necessary but wished to explore the deal's details. First, that as the project was under the constraints of Section 24, where did the Council stand in acquiring the approval from North Yorkshire County Council (NYCC)? Second, the Members asked that Officers expand on the marketing of the site as she was aware of interest in the site since 2019. Third, she sought confirmation that all procedures for selling the site

had been complied with. The Member also requested to know who supplied the Council with the quotes regarding the site's sale.

The Deputy Monitoring Officer (DMO) responded and acknowledged that the Council would need to seek the authority from the executive of NYCC which was not at that point obtained but was recognised within the report as well as the draft heads of terms attached to the report. Steps were however being made to schedule a meeting regarding permission but were subject to the outcome of the call-in. In regard to marketing the site, the constitution stated that as a general rule land disposals should go out to competitive tender however, it was not always considered preferable to do so. Rather, subject to obtaining a valuation, the relevant Portfolio Holder could consent to selling direct. This was legally permissible through the Government's General Disposal Consent 2003 which allowed local authorities to dispose of land for a consideration less than the best that could reasonably be obtained without the consent of the Secretary of State, provided certain conditions were met. These conditions included the substantial regeneration and other benefits outlined in the Cabinet report.

Cllr Phillips mentioned she knew of a local businessman who was prepared to offer 50% more for the site given the revenue generated from the attached car park. Therefore the Member was concerned how the site was marketed. The DMO informed Members that the deal would contribute towards achieving the council's recently adopted North Bay Masterplan, and passed on to the Interim Regeneration Officer (IRD) to explain further. The IRD explained that the Masterplan set forth a direction for the North Bay area which included the provision of additional tourist accommodation as a key component. Although the former indoor pool site was a complementary site rather than within the masterplan area it was clear that the best use of the land was for a four star plus hotel. On that basis the council was approached by a local hospitality company that offered above the market value for the site when sold as a future hotel development.

Cllr Phillips informed committee that she wished to discuss the legal elements of the report. Members voted on a motion to exclude the public.

RESOLVED that in accordance with Section 100A(4) of the Local Government Act 1972 (and subject to consideration of the public interest under Paragraph 10 of Part 2 of Schedule 12A of the Act) the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information (as defined in Part 1 of Schedule 12A of the Act), namely information;
(a) relating to any individual;
(b) which is likely to reveal the identity of an individual; and/or
(c) relating to the financial or business affairs

Members agreed to re-enter public session. The Chair invited Cllr Chatt to address the committee as a signatory of the Call-in.

The Member inquired into why the Leader, Cllr Siddons, was present at the meeting. The MO explained that Cllr Siddons was attending instead of the Portfolio Holder, Cllr Colling who could not attend.

Cllr Chatt referred to a resident who had contacted their local councillor to express that they had not felt consulted on the project. The Member was concerned on numerous issues: that the process had been carried out in a closed manner; that fencing was never erected around the site, that the area was saturated with hotels; that the overflow car park which the Council retained control of would suffer

competitively compared to the hotel's car park and queried why the car park was included in the deal. The Member believed that the project was not supported by Full Council and that Members should have been involved in the process. Additionally, the Member was troubled that the site did not go out to tender and argued the administration had not acted transparently. Furthermore, he thought the site was isolated from the North Bay Masterplan and questioned whether best value for money had been achieved. In conclusion the Member felt that more options should have been available via the process of competitive tender and requested to know why it was not marketed.

The IRD referred Members to para. 4.1 of the report which detailed an extensive consultation that was undertaken on the North Bay Masterplan and included the former indoor pool site. The Officer remarked that over 700 comments and contributions were received from a variety of users. The predominant response was positive towards what was being proposed. The Chair understood that as the former indoor pool site was part of the larger North Bay Masterplan consultation, the resident may have been unaware the site had previously been consulted on.

Cllr Stonehouse reminded Committee that the plans would eventually pass through the Planning and Development Committee and would represent an opportunity for further debate.

Cllr Broadbent responded to Cllr Chatt's comments, he said he participated in the working group and believed they were thorough. The Member believed that the addition of a hotel would resolve several issues facing the borough such as extending tourist visits and expenditure within the borough.

Cllr Cockerill believed that in this case the Council had not followed the proper constitutional procedures and law of the land. He argued the requirements of the Local Government Act 1972 were not fulfilled, and that Cabinet's grounds for the decision were flawed. The Member clarified he did not believe any omission to be intentional. Moreover he was in favour of selling the site in principle but sought further detail on how the site had been marketed, specifically, how HQ Hotels became aware of the site in order to make an offer. The Member went on to share with committee knowledge of another interested party that had contacted the Council via email regarding the purchase of the site at a price in excess of what the site was currently being sold for. The MO advised that discussion of the emails be conducted in private session due to the confidentiality of the correspondence. Before this, the MO responded to charges the council had not acted legally, she confirmed that as MO the Council had adhered with all relevant statutory procedures and complied with the law of the land. Moreover that external advice had validated the position.

Members voted on a motion to exclude the public.

RESOLVED that in accordance with Section 100A(4) of the Local Government Act 1972 (and subject to consideration of the public interest under Paragraph 10 of Part 2 of Schedule 12A of the Act) the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information (as defined in Part 1 of Schedule 12A of the Act), namely information;
(a) relating to any individual;
(b) which is likely to reveal the identity of an individual; and/or
(c) relating to the financial or business affairs

RESOLVED That the Places and Futures Overview and Scrutiny Committee uphold the Cabinet's decision dated 26 July 2022 in respect of the Land Disposal of Former Indoor Swimming Pool Site.

Chairman