



meeting	CALL-IN SELECT COMMITTEE (INTERNATIONAL CLOTHING CENTRE)	
date	4 December 2006	agenda item number

Report of the Lead Member for the Call-In

Call-In of the Nottinghamshire International Clothing Centre – Sale of building and adjacent land

Decisions RE/2006/00220 and RE/2006/00221

Basis for the call-in

1. Delegated decisions RE/2006/00220 and RE/2006/00221 have been called-in because it was considered by Members that the decision report raised concerns about:
 - the propriety of the decision
 - whether proper consultation has taken place
 - whether a full range of options has been considered
 - whether relevant issues has been ignored and
 - whether irrelevant issues has been taken into account
2. This call-in does not relate to the impact of the decisions rather the process followed in reaching those decisions. It is considered that the proper **procedure** as set down in the constitution was not followed. This led to a decision that was not open and transparent. It should therefore be referred back to the decision maker so that a decision can be reached after the correct procedures have been followed appropriately.
3. This decision was a **key decision** and:
 - the constitutional rules for key decisions were not followed; and
 - it was not reported in the forward plan
4. In addition to the constitutional rules for key decisions not being followed, the decision did not adhere to the principles of decision making as set out in the constitution. In particular:
 - 13.2.2 due consultation and the taking of professional advice from officers;
 - 13.2.4 presumption in favour of openness;
 - 13.2.6 clarity of options considered and reasons for decision.

Background

5. The effects of delegated decisions RE/2006/00220 and RE/2006/00221 are “that approval be given to the appointment of an external firm of chartered surveyors to progress the disposal of Nottinghamshire International Clothing Centre and adjacent land off Annesley Road, Hucknall.”
6. The Nottinghamshire International Clothing Centre was opened in 1995 “to support the textile and clothing industry” through “direct business support, projects for the industry, networking and lobbying work.”
7. The location of the Clothing Centre was selected as “an important and prestigious location which is accessible to clothing businesses in the County and in particular to the main concentrations of industry in Ashfield and Greater Nottingham.” The work of the Centre impacts on small and medium sized enterprises across the County and the communities employed by them and is not limited to one electoral division.
8. The Economic Development Committee approved £1,786,175 to finance the Centre on 29 November 1993. This did not include the purchase of the land.
9. The Clothing Centre was identified in the Alliance SSP Accommodation Strategy in June 2005 as likely to be converted into a Business Innovation Centre.

Procedure for Key Decisions

10. A key decision means an executive decision, which is likely:
 - to result in the County Council incurring expenditure which is, or the making of savings which are, significant, having regard to the County Council's budget for the service or function to which the decision relates; or
 - to be significant in terms of its effect on communities living or working in an area comprising two or more electoral divisions in the area of the County Council.
11. The County Council has decided that significant expenditure and savings should be those of £1million. The Centre and adjacent land which are to be sold would, at the last valuation, generate savings of in excess of £1million.
12. The constitution requires that “any report leading to a key decision should contain a paragraph explaining that it should be considered as a key decision and the reason for that. It should also include confirmation that it has been published on the forward plan and the dates of that publication.”

13. The report contains none of the information outlined in the constitution. The decision maker should be asked to reconsider the decisions as the proper open and transparent constitutional process has not been followed. **The decision was a key decision and the constitutional rules for key decisions were not followed**

Forward plan

14. The forward plan provides information to the public, Members and partners on forthcoming key decisions to be taken by the County Council including “the steps any person might take who wishes to make representations to the Cabinet or decision maker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken”
15. Before taking a key decision, the constitution requires that:
- “a notice (called here a forward plan) has been published in connection with the matter in question;
- at least five clear days have elapsed since the publication of the forward plan; and
- where the decision is to be taken at a meeting of the Cabinet or a Committee of Cabinet, notice of the meeting has been given in accordance with Rule 4 (Notices of Meeting).”
16. There is no reference to the key decisions (RE/2006/00220 and RE/2006/00221) within the forward plan. The key decisions were not the subject of a general exemption or urgency agreement and therefore should have been published in the forward plan. The decision maker should be asked to reconsider the decisions to allow the proper open and transparent constitutional process to be followed.

Principles of Decision Making

17. “All decisions of the Council and its constituent parts must be made in accordance with the following principles:
- proportionality (i.e. the action must be proportionate to the desired outcome);
 - due consultation and the taking of professional advice from officers;
 - respect for human rights;
 - presumption in favour of openness;
 - clarity of aims and desired outcomes; and
 - clarity of options considered and reasons for decision.”
18. The report in relation to RE/2006/00220 and RE/2006/00221 suggests the reason for the decisions is that the “property is surplus to requirements” and that the “County Council has decided to close the Nottinghamshire International Clothing Centre following changing priorities within Culture and Community (Regeneration) Division”

19. The 2006-07 budget requires “the identification” of savings from lower priority items including regeneration, however the County Council has not taken any identifiable decision to close the Clothing Centre or to change the priorities of the regeneration operations of the authority.
20. The reasons for the decision also provide no explanation as to why the adjacent land is also surplus to requirements.
21. The report could therefore be considered as misleading and lacks clarity as to the reasons for the decision despite the requirements of the principles of decision making.
22. The decision maker is not informed of the impact of the decision on County Council services. For instance no consideration has been given to the sensitive issue of employment of County Council staff based at the Centre.
23. The County Council Budget Book for 2006-07 reports that during 2005-06 the County Council established a new Disaster Recovery site for IT at the Clothing Centre. The decision maker is not provided with any information as to the impact on this crucial facility of the sale of the clothing centre or alternatively any potential impact on the sale of the clothing centre due to the siting of this facility.
24. The decision maker is not informed of any consultation that may have taken place with those affected by this decision nor does the decision maker demonstrate any consideration of such consultation and the potential impact of the decision on those outside the County Council. It should also be noted that no consultation has been logged on the County Council’s consultation database in relation to these decisions.
25. The decisions are identified as affecting the electoral division of Hucknall despite the work of the Clothing Centre across the County and the East Midlands. The decisions should have been identified as affecting all electoral divisions with all Members of the County Council informed of the intention to make these decisions.
26. The decision maker is not informed of and does not demonstrate consideration of any alternative options to the decision.
27. The option provided is based upon the information contained within the report which could be misleading. No reason is provided for the option, nor any evidence to support the suggestion that the Clothing Centre is currently registering a deficit. This information should be quantified so that the decision maker can judge the impact of this deficit and compare it to the previous operational costs of the Clothing Centre to ensure that this decision is proportional.
28. It is possible that the Clothing Centre is in deficit because it is operating a very basic level of service, prior to a decision being made to its closure. Tenants have been encouraged to vacate the premises prior to any decisions as to the Centre’s future which could lead to a

reduction in income with the. In reaching the decision to close the Clothing Centre the decision maker has no reference to the terms and conditions of the leases of current tenants.

29. The report also gives no consideration to the impact on tenants of this basic service and as to whether this consists of a reduction in service below that which they are currently paying for.

Additional Considerations

30. At the meeting of the Corporate Strategy and External Affairs Select Committee on 4 January 2006, Members made a number of recommendations as a result of the call-in considered.
31. This is the second call-in considered in 2006 from the Finance and Property portfolio, which relates to the information upon which decisions are based and has posed serious questions regarding the information available and the procedures followed. The Call-in Select Committee might wish to request the Chief Executive to consider whether the support for decision making is currently sufficient.

Conclusion

32. The County Council's constitution puts into place a number of requirements to ensure that the decision making of the County Council is open and transparent. Decisions RE/2006/00220 and RE/2006/00221 do not meet these requirements with regard to the making of key decisions and publication within the forward plan. This disadvantages any person whom wishes to follow the making of these decisions and who might wish to make representations with regard to them as part of an open democratic society. The public were further disadvantaged by the issuing of a press statement announcing these decisions 5 weeks prior to them being made. Additionally the making of these decisions departs from the principles of decision making and it is for these reasons that the decision maker should be asked to reconsider the decision. Once provided with all the appropriate information and having publicised the decision so that the public can see that the decision is being made for the correct reasons a decision should again be taken on this issue.

Recommendation

33. It is recommended that the Select Committee refer the decision back to the decision maker as:
- it was a key decision and the constitutional rules for key decisions were not followed
 - it was not reported properly in the forward plan; and
 - the information provided to the decision maker led to a departure from the principles of decision making
34. It is recommended that the Select Committee request that the Chief Executive:
- ensure that officers involved in supporting decision making are aware of the constitutional requirement with regard to decision making and that appropriate training be provided where necessary.
 - review the procedures that are in place to ensure that reports leading to decision making are compiled correctly

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Background papers:

Correspondence from Corporate Property to tenants – 9 August 2006

Responses from tenants 19 October, 25 October 29 October, 31 October, 3 November 2006

Statement to Hucknall and Bulwell Despatch 26 September 2006