



meeting	CALL-IN SELECT COMMITTEE (NOTTS CONNECT PROJECT)	
date	9 February 2007	agenda item number

Report of the Lead Member for the Call-In

Call-In of the Notts Connect Project – Property Decision to Lease the Dakota Building, Space 27, Sherwood Business Park, Annesley and Latest Estimated Cost Decisions CA/2007/00005 and CA/2007/00018

Basis for the call-in

1. Decisions CA/2007/00005 and CA/2007/00018 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 have been considered
 - whether relevant issues have been ignored and
2. Members consider that scrutiny of these decisions could identify that the decisions did not adhere to the principles of decision making and was not open and transparent. In particular:
 - 13.2.4 presumption in favour of openness;
 - 13.2.6 clarity of options considered and reasons for decision.
3. The decisions should therefore be referred back to the decision maker so that decisions can be reached after the relevant issues have been properly and openly considered.

Background

4. The effects of decisions CA/2007/00005 and CA/2007/00018 are
 - “That the acquisition of a ten year lease of the Dakota Building, Space 27, Sherwood Business Park, Annesley be approved and
 - that the latest estimated cost for Notts Connect, as set out in the report, be noted and that the amendment to the Capital

Programme to provide funding for the fit-out of Space 27 for Notts Connect be approved.”

5. A timeline of related previous decisions since September 2005 and other relevant meetings is attached at Appendix 1 to this report.

Principles of Decision Making

6. “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.”

Clarity of options

7. The report for decision to lease the Dakota Building (CA/2007/00005) provides the Cabinet with one option to consider based upon the Cabinet Decision to enter into a partnership to provide a 101 service (CA/2006/00132). The recommendation and decision make no reference to alternative options and contain no specific information to identify the amount of property to be leased. The report identifies the decision to secure 19,000ft of accommodation at the Dakota Building, yet this does not appear to be the amount to be let.
8. The exempt report that accompanies the report to lease the Dakota Building contains additional property options, though they are not clearly distinguished, with information switching between metric and imperial units and changing financial information making it unclear which option is suggested in the report when compared to the risks set out in the appendix. A member of the public wishing to follow this decision would not have access to the exempt report and would not be aware that options existed within the accommodation to be leased. Members requesting the call-in suggest that it is not clear whether a full range of options has been considered.

Presumption in favour of openness

9. The Select Committee may wish to question whether the information contained within the report for decision CA/2007/00018 should be exempt. The report states that the information is exempt by Paragraph 3 of the Local Government Act (access to information)(variation) Order 2006. This paragraph is described by the County Council as “information relating to the financial or business affairs of any particular person”. The report contains some information that could relate to this

category but Members may consider that not all of the information in the report fulfils this criterion.

10. The exempt report contains all of the option information, including non-financial information in relation to risks to the County Council and information regarding accommodating Notts Connect in the Ashfield Area Office. Some of this information was put into the public domain, when a previous call-in of the Ashfield Area Office was considered yet this information is unavailable to the public on this occasion.
11. At the Call-In Select Committee (NICC) on 4 December 2006, it was suggested that the test of openness should be whether the “man in the street” would consider the decision to be fair and transparent. It is difficult for the public to make such a judgement if the information is unnecessarily unavailable to them.
12. The foundations of decision making, in this instance, are laid in meetings that are not open to the public, such as the Finance Members’ Reference Group (the membership for which is drawn only from the majority party) and Corporate Asset Management Group. This would seem to run counter to the principle of openness. Information from these non-public meetings does not enter the public domain.

Reasons for decision

13. There are a number of conflicting issues arising from reports and decisions taken in regard to Notts Connect and the Ashfield Area Office. As such the reasons for the decision are unclear:

Non-emergency number (101)

14. At the Cabinet meeting on 13 September 2006, Members were informed that the County Council could bid to provide a non-emergency number service in partnership with Nottinghamshire Police, Nottinghamshire Fire and Rescue Service, Nottinghamshire’s District and Borough Councils and the City Council.
15. The Cabinet was informed that if the bid was successful it would provide an opportunity to locate the service with Notts Connect and the decriminalisation of parking services. The following justification was provided for relocating these services out of the Ashfield Area Office:

“2.11 The 101 service must be implemented and go live between January and June 2007. However, the current turnkey date for the Ashfield Area Office is the end of August 2007. Therefore there is a need to seek alternative accommodation.”

16. No detailed information was provided as part of the report to Cabinet in September 2006 explaining the implications or risks for other County Council services, the Ashfield Area Office project or the County Council’s budget. Some of these risks were identified by an officer group - the Corporate Asset Management Group – on 7 July 2006. The minutes of this meeting record that *“Plans for this project have changed*

and developed over the past few weeks. Originally the Contact Centre was expected to be housed in the top floor of the Ashfield Area Office. This is not feasible now due to expected expansion due to the non-emergency 101 number and the area office would not be ready in time to accommodate the NE101 staff. A unit on Sherwood Business Park has been suggested as a possible new location.” The minutes would seem to indicate officers making policy – Members should and could have been informed at the next Cabinet meeting and yet the information on risks from this group was not made available to the Cabinet when making the decision in September 2006 and again it was not included in the report in December 2006.

17. In the Cabinet report that has been called in, paragraph 3.3 explains that

“the Home Office has now withdrawn the proposals and supporting financial assistance for wave 2 of the 101 service. As a result of this decision the options to meet the needs of the Contact Centre and Decriminalisation of parking have been reviewed”

18. The report contains no justification for the need to review the location of the Contact Centre and Decriminalisation of Parking Service. The original justification provided in September 2006 to consider alternative locations was due to the need to provide the 101 service before the Ashfield Area Office would be completed. The Cabinet report of December 2006 states that this justification has been withdrawn.

19. The Cabinet is told that the Corporate Asset Management Group and Members Property Reference Group considered alternative property options. This was based on the need to accommodate the 101 service. The Cabinet is not provided with any specific detail or advice from these groups.

20. Whilst the Members’ Property Reference Group is not a constituted County Council committee, its review has been relied upon as part of the making of this decision. The Select Committee may wish to consider the minutes of this meeting on 26 July 2006 which state:

“Notts Connect/ Notts 101 – A long discussion took place, the outcome being that the Reference group recommended that the lease at Sherwood Business Park would continue to be negotiated by Property staff, however we should only commit to the lease once we have secured funding of £1 million for the 101 project and have a commitment from the project manager regarding the £600K contribution from District Councils. If funding does not materialise then it is suggested that the building at Sherwood Business Park is too big for the Authority’s needs and should not be pursued, instead the contact centre could move back into the Ashfield Area Office. Councillor Baron would pass on the recommendations of the Reference Group to the Leader and Deputy Leader at a meeting the following day”

21. The Select Committee may wish to consider whether the Cabinet report made clear these findings to the decision maker.

Floor Space

22. The Ashfield Area Office is expected to provide 7.3sq metres per employee based there. This is below the County Council's preferred space of 7.7sq metres, however it was considered that the superior quality of the building would make this acceptable.
23. The report identifies the need for 100 seats for the Notts Connect and decriminalisation of parking services. The decision of the Cabinet is that 1115sq metres would be let for 100 seats. This would provide 11.2sq metres per seat – 31% more than the Ashfield Area Office (7.3sq metres) and 35% more than the County Council's preferred level (7.7sq metres). This would appear over generous.
24. In contrast, the report on the delegated decisions to dispose of the Nottinghamshire International Clothing Centre (NICC) on 31 October 2006 identified that the NICC extended to a gross floor space of 1150sq metres. In his statement to the Select Committee the Cabinet Member for Finance and Property informed Members that this was too small for the Notts Connect/Decriminalisation of parking services (a feasibility study of placing Notts Connect within NICC was undertaken in May 2006). The space available at the NICC – 1150sq metres – is greater than the lease of the Dakota Building – 1115sq metres – agreed one month later.
25. The Select Committee may wish to consider whether the Cabinet was supplied with all the relevant information it required in order to properly make these decisions.

Seats/Spaces

26. The Cabinet report of April 2005 indicated that the Contact Centre would require at least 80 seats with room for expansion. In the Finance and Property decision September 2005 RE/2005/00091 it was reported that the Ashfield Area Office had been identified as appropriate for the Contact Centre and a provision of 120 places. This was the information upon which the planning of the Ashfield Area Office should have been based. The most recent number identified in the Cabinet report in December 2006 is 100 places. The report however does identify a benefit associated with the Ashfield Area Office that the location provides the potential for expansion. Members of the Select Committee may wish to examine why the Ashfield Area Office was previously considered appropriate for the Contact Centre with the possibility of future expansion but is now no longer acceptable, as this information is not clear within the report upon which this decision has been based.

27. The Select Committee may wish to note that the Members' Finance Reference Group meeting on 26th July 2006 chaired by the Cabinet Member for Finance and Property recommended that in the absence of funding for the 101 service that the Notts Connect and decriminalisation of parking services should revert to the Ashfield Area Office. The Select Committee should also note that no decision has been taken to re-assign the space within the Ashfield Area Office reserved for the Contact Centre. In addition, the Report of the Director of Resources to the Members' Finance Reference Group indicates concerns about a shortfall in the overall revenue funding position of £2.9 million per annum. Even after the top-slicing solution proposed by Chief Officers there is a residual shortfall of £918,000 for 2007/8 and £251,000 in 2008/9.

Impact on Ashfield Area Office

28. The Cabinet has not been provided with information on the impact of this decision on other County Council projects, in particular the Ashfield Area Office (The decision around the design options and costs of the Ashfield Area Office was subject to a call-in on 16 January 2006 – see chronology – although the matter is yet to be reconsidered by Cabinet). Notts Connect was committed to a substantial allocation of space in the Ashfield Area Office which was designed with the Contact Centre in mind. No information is provided as to how this space will now be filled yet this was identified as an issue at the Corporate Asset Management Group on 7 July 2006. The minutes of the relevant Corporate Asset Management Group meeting state that the Ashfield Area Office has a shortfall of £500,000; as the contact centre was part funding the area office. In addition, the Ashfield Area Office is left with seats that need filling – although Corporate Property staff did not consider this to be an issue. The Cabinet is not provided with the associated revenue and capital cost implications for the County Council of relocating other services and employees into the Ashfield Area Office. These risks appear to provide relevant issues that the Cabinet should have been provided information on prior to the decision being taken. The Select Committee may wish to consider whether this decision has been taken in isolation and whether this is appropriate.
29. The report does not clearly distinguish how the capital allocation of £506,000 for Notts Connect which was allocated to the Ashfield Area Office project will now be spent.

Implications for Notts Connect employees

30. The Ashfield Area Office is a flagship building expected to achieve a Building Research Establishment's Environmental Assessment Method (BREEAM) rating of excellent. As such the building is expected to have a positive impact on employees and revenue costs for occupant services. This is being achieved by spending £1.5million more than was originally budgeted for this building. The decision of the Cabinet in December 2005 clearly identified that the Ashfield Area Office would

generate annual savings of £4,750 from improved staff retention and £30,600 from reductions in sickness absence. The report upon which the Cabinet have made the decision to lease the Dakota Building provides no information on these issues and does not provide the Cabinet with any detail of the implications for employees and whether they have been consulted on this change.

31. The Select Committee may wish to consider why, if these issues were considered a priority as part of the Ashfield Area Office, they are not considered as part of the decision for the Notts Connect/Decriminalisation of parking services. The Select Committee may also wish to consider whether the County Council should be taking a consistent approach to the acquisition of property and attempting to provide parity of working conditions for its employees. The Select Committee might consider that relevant issues have not been brought to the attention of the Cabinet prior to this decision being made.

Forward Plan

32. 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”

33. 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).”

34. The Forward Plan published on 4 December 2006 does not include the decision to lease the Dakota Building. On 15 December 2006 an amendment was published adding this decision to the Forward Plan. This information does not appear to have been received by all the Members of the Council who would usually have no reason to check the Forward Plan for amendment within the monthly cycle in which it is published. The Select Committee may wish to clarify why this decision was not included on the original Forward Plan for December (since it relates to circumstances that were known about as far back as the previous July) and whether the use of this procedure undermines the purpose of having a Forward Plan, undermining the efforts of the public and Members in following decisions of the County Council.

35. Irrespective of whether or not publishing an amendment to the Forward Plan in this way is sufficient to comply with the “letter of the law” it does not facilitate the work of Members who might wish to closely follow the decision making process; let alone interested members of the public.

Conclusion

36. The decision of the Cabinet does not appear to have been based upon all the necessary information, taking full regard of the implications for the County Council and its employees. It is considered that the principals of decision making have not been adhered to and that no clear justification has been provided for the decision taken by the Cabinet. The concerns of Members who identified a risk to the County Council were not brought to the attention of the Cabinet and therefore their recommendations to manage that risk have not been followed. Decisions in relation to the acquisition of property and facilities for staff appear to be taken in isolation and the Select Committee may wish to recommend that the way these decisions are taken and the standard of accommodation that the County Council requires be reviewed.

Recommendation

37. It is recommended that the Select Committee refer the decision back to the decision maker as:

the information provided to the decision maker led to a departure from the principles of decision making, specifically that a full range of options and relevant issues were not available for consideration.

Councillor Mrs K L Cutts Lead Member for the Call-In

Background papers:

Cabinet and Delegated Decision reports as identified in the report
Forward Plan: January 2007 – April 2007

Timeline of decisions and meetings

February 2007	Call-in Select Committee*	Scrutiny of the decision to Lease Dakota Building, Space 27, Sherwood Park
January 2007	Cabinet Decision	Cabinet Decision CA/2007/00005 and CA/2007/00018 Lease Dakota Building, Space 27, Sherwood Park
December 2006	Call-in Select Committee*	Statement of Cabinet Member for Finance and Property refers to meetings in June 2006.
31 October 2006	Cabinet Member (Finance and Property) Delegated Decision	Delegated decisions RE/2006/00220 and RE/2006/00221 Dispose NICC – “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.
24 October 2006	Not Reported	101 Withdrawn by Home Office
5 October	101 Bid	Final 101 bid to Home Office
13 Sept 2006	Cabinet Decision	Cabinet Decision CA/2006/00132 That a partnership agreement be entered into, as set out in the report, for the purpose of delivering the single non-emergency number
9 August 2006	Corporate Asset Management Group <i>(not a public meeting)</i>	Note of meeting records Members' concerns at Members' Finance Reference Group - if no 101 funding Notts Connect reverts to Ashfield Area Office.
27 July 2006	Meeting Leader, Deputy Leader and Portfolio Holder Finance & Property <i>(not a public meeting)</i>	The meeting was arranged to discuss signing a lease for accommodation for Notts Connect at Space 27. Outcome. It was decided not to do this until the contract for the 101 number was secured from the Home Office. Space was reserved for 3 months at no extra cost to the authority
26 July 2006	Members Finance Reference Group <i>(not a public meeting)</i>	Consider change of location for Notts Connect on basis of 101. Recommend Dakota Building only if 101, otherwise revert to Ashfield Area Office.
13 July 2006	Corporate Asset Management Group <i>(not a public meeting)</i>	Consider change of location for Notts Connect on basis of 101 – more detail (This is an officer only meeting)
7 July 2006	Corporate Asset Management Group <i>(not a public meeting)</i>	Consider change of location for Notts Connect on basis of 101 (This is an officer only meeting)
2 June 2006	Expression of Interest in 101	Submission of an 'expression of interest' was agreed by the Chief Executive and the Leader and was submitted to the Home Office
June 2006	Cabinet Member Finance and Property <i>(not public meetings)</i>	Meets twice with officers from Corporate Property, Finance, Design Services, Architects and Regeneration to consider change of location for Notts Connect
3 May 2006	Cabinet*	Cabinet Decision CA/2006/00064 (and CA//2006/00075) That subject to the approval of the latest cost report in the exempt section of the agenda, the Director of Environment be authorised to receive competitive tenders for building works at Station Road, Sutton in Ashfield and to enter into a contract within the approval latest estimated costs, subject to compliance with the Council's Financial Regulations.
9 May 2006	Memorandum	Feasibility Study by Design Services (Property Services Division) into moving Notts Connect into NICC Hucknall
April 2006	Cabinet Member (Finance and Property) Delegated Decision	Decisions RE/2006/00085 (and RE/2006/00086) That approval is given to this LEC report and exempt appendix for building works at Station Road Sutton in Ashfield and the Director of Environment be authorised to invite competitive tenders and enter into a contract within this LEC subject to the Financial Regulations of the Authority.
March 2006	Cabinet*	Cabinet Decision CA/2006/00032 That consideration of the recommendations of the Corporate Strategy and External Affairs Select Committee, arising from the consideration of call-in and the action plan produced by the monitoring officer be deferred to further consideration at a future meeting.
February 2006	Assistant Director of Resources (Corporate Property)	That approval is given to 1) taking the additional 1 st floor space at Chadburn House, Mansfield on the same terms as existing agreements; and

	Delegated Decision	2) the accommodation for the Notts Connect project is reviewed on a regular basis and contracts at Chadburn House are renewed/reduced in line with any changes to the turnkey date of the Ashfield Area Office.
16 January 2006	Call-in Select Committee*	Call-in of the Ashfield Area Office/Notts Connect Project – Design Options and Costs
December 2005	Cabinet*	2005/210 – Cabinet Decision on Ashfield Area Office/Notts Connect project design and costs. Option C is selected; the capital programme is duly increased and additional potential capital receipts noted.
October/ November 2005	Cabinet Member (Finance and Property) (not public meetings)	The all party property reference group meets on 31 October and 8 November to consider the various building options. These options subsequently detailed in the report to Cabinet of 7 December.
September 2005	Cabinet Member (Finance and Property) Delegated Decision	Ashfield Area Office/Notts Connect Project report approved by Property Portfolio meeting on 27 September.
		* - asterisk denotes public meeting

Appendix 2

Minutes of Corporate Asset Management Group 7 July 2006

Appendix 3

Minutes of the Corporate Asset Management Group Meeting Held 9 August 2006

Appendix 4

Members Finance Reference Group Terms of Reference

Appendix 5

Note of Members' Finance Reference Group – 26th July 2006

Appendix 6

Report of Director of Resources to Members' Finance Reference Group